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1950–1955

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PREFACE

In 1950 the Division of Historical Policy Research of the Department of State and the staff of the Senate Committee on Foreign Relations collaborated in the preparation of a collection of basic document on American foreign policy covering the years 1941–1949. The collection was released under the title *A Decade of American Foreig Policy*: *Basic Documents, 1941–49* as Senate Document No. 123, 81s Congress, 1st Session. The usefulness of this publication indicate the need for a supplement that would bring the collection closer t currency.

The present compilation, like its predecessor, has been designed primarily for official use. The possibility that it might prove useful t others outside official circles has also played a part in determining th scope and editorial mechanics of the publication. In some instance the 6-year span (1950–1955) of the compilation has been violated fo the sake of completeness and continuity, with the reprinting of a few documents that appeared in the earlier *Decade*, the printing of a few additional pre-1950 documents, and the including of some 1956 materials. Certain international agreements to which the United State s not a party have been included where the effect of such agreement on American policy formulation is obvious.

Despite its size, which reflects the growth of American responsibility n international relations, the present collection makes no pretense a being exhaustive. In many instances, it has proved necessary t print summaries of developments and of individual lengthy document or to provide nothing more than the title of a document, indicating where its text may be found. While the general rule of chronologica arrangement of the documents within each of the 20 Parts has bee observed, it has been necessary in certain Parts to place some documents under chronologically overlapping subject headings. Thi arrangement, coupled with a list of the documents, fairly extensive cross-references, and an index, will facilitate use of the volumes.

This collection was prepared in the Historical Division, G. Bernard Noble, Chief, under the immediate direction of the Chief of the Advisory and Review Branch, E. Taylor Parks, with the assistance o Peter V. Curl, William Gerber, Robert W. Lambert, Herbert Spielman, Isaac A. Stone, and Yancey M. Taylor. Proofreading and editorial functions were performed by Doris E. Austin and Margaret G. Martin of the Historical Division, and John J. Lee and Anne C Torwick of the Division of Publishing Services. Assistance was also

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Part I

PRINCIPLES AND OBJECTIVES OF AMERICAN FOREIGN POLICY

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1. THE STATE OF THE UNION: Message by the President to the Congress, January 4, 1950 (Excerpts)[1]

A year ago I reported to this Congress that the state of the Union was good.[2] I am happy to be able to report to you today that the state f the Union continues to be good. Our Republic continues to increase in the enjoyment of freedom within its borders, and to offer trength and encouragement to all those who love freedom throughout the world.

During the past year we have made notable progress in strengthening the foundations of peace and freedom, abroad and at home.

We have taken important steps in securing the North Atlantic community against aggression. We have continued our successful support of European recovery. We have returned to our established policy of expanding international trade through reciprocal agreement We have strengthened our support of the United Nations.

While great problems still confront us, the greatest danger has receded—the possibility which faced us 3 years ago that most of Europe and the Mediterranean area might collapse under totalitarian pressure. Today, the free peoples of the world have new vigor and new hope for the cause of peace.

. . . .

The scientific and industrial revolution which began two centuries ago has, in the last 50 years, caught up the peoples of the globe in a ommon destiny. Two world-shattering wars have proved that no corner of the earth can be isolated from the affairs of mankind.

The human race has reached a turning point. Man has opened the secrets of nature and mastered new powers. If he uses them wisely he can reach new heights of civilization. If he uses them foolishly

In shaping the outcome, the people of the United States will play a leading role.

Among all the great changes that have occurred in the last 50 years none is more important than the change in the position of the Unite States in world affairs. Fifty years ago, we were a country devote largely to our own internal affairs. Our industry was growing, and w had new interests in the Far East and in the Caribbean, but we wer primarily concerned with the development of vast areas of our ow continental territory.

Today our population has doubled. Our national production ha risen from about $50,000,000,000, in terms of today's prices, to th staggering figure of $255,000,000,000 a year. We have a more productive economic system and a greater industrial potential than an other nation on the globe. Our standard of living is an inspiration fo all other peoples. Even the slightest changes in our economic an social life have their effect on other countries all around the world.

Our tremendous strength has brought with it tremendous responsibilities. We have moved from the outer edge to the center of worl affairs. Other nations look to us for a wise exercise of our economi and military strength, and for vigorous support of the ideals of representative government and a free society. We will not fail them.

Our objective in the world is peace. Our country has joined with others in the task of achieving peace. We know now that this is no an easy task, or a short one. But we are determined to see it through Both of our great political parties are committed to working together— and I am sure they will continue to work together—to achieve this end We are prepared to devote our energy and our resources to this task because we know that our own security and the future of mankind ar at stake.

. . . .

Our surest guide in the days that lie ahead will be the spirit in whic this great Republic was founded. We must make our decisions in th conviction that all men are created equal, that they are equall entitled to life, liberty, and the pursuit of happiness, and that th duty of government is to serve these ends.

This country of ours has experienced many blessings, but non greater than its dedication to these principles. At every point in ou history, these ideals have served to correct our failures and shortcomings, to spur us on to greater efforts, and to keep clearly befor us the primary purpose of our existence as a nation. They hav enshrined for us, as a principle of government, the moral imperative t do justice, and the divine command to men to love one another.

These principles give meaning to all that we do.

In foreign policy, they mean that we can never be tolerant of oppression or tyranny. They mean that we must throw our weight on th side of greater freedom and a better life for all peoples. These principles confirm us in carrying out the specific programs for peac which we have already begun.

We shall continue to give our wholehearted suppor to the Unite

Nations. We believe that this organization can ultimately provid the framework of international law and morality without which mankind cannot survive. It has already set up new standards for th conduct of nations in the Declaration of Human Rights[1] and the Convention on Genocide.[2] It is moving ahead to give meaning to th concept of world brotherhood through a wide variety of cultural economic, and technical activities.

The events of the past year again showed the value of the Unite Nations in bringing about the peaceful adjustment of tense international controversies. In Indonesia[3] and in Palestine,[4] the efforts o the United Nations have put a stop to bloodshed and paved the wa to peaceful settlements.

We are working toward the time when the United Nations wil control weapons of mass destruction and will have the forces to preserve international law and order.[5] While the world remains unsettled however, and as long as our own security and the security of the fre world require, we will maintain a strong and well-balanced defens rganization. The selective service system is an essential part of ou defense plans, and it must be continued.

Under the principles of the United Nations Charter, we must continue to share in the common defense of free nations against aggression At the last session, this Congress laid the basis for this joint effort. We now must put into effect the common defense plans that are bein worked out.

We shall continue our efforts for world economic recovery, becaus world prosperity is the only sure foundation for permanent peace.

As an immediate means to this end, we must continue our suppor of the European Recovery Program.[7] This program has achieved great success in the first 2 years of operation, but it has not yet been completed. If we were to stop this program now, or cripple it, jus because it is succeeding, we should be doing exactly what the enemie of democracy want us to do. We should be just as foolish as a man who, for reasons of false economy, failed to put a roof on his house after building the foundation and the walls.

World prosperity also requires that we do all we can to expand world trade. As a major step in this direction, we should promptly organization, which the United States has been foremost in creating, is to establish a code of fair practice, and an international authority for adjusting differences in international commercial relations. It is an effort to prevent the kind of anarchy and irresponsibility in world trade which did so much to bring about the world depression in the 1930's.

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[1] For the text of the Universal Declaration of Human Rights, adopted by th U. N. General Assembly as its Resolution 217A (III), Dec. 10, 1948, see *A Decad of American Foreign Policy*, pp. 1156–1159.

[2] For the text of the Convention on Genocide, approved by the U. N. Genera Assembly Dec. 9, 1948, see *ibid.*, pp. 966–969. The Convention was signed o behalf of the United States Dec. 11, 1948. On June 16, 1949, President Truma submitted the convention to the Senate with a view to obtaining the advice an consent of that body to ratification. The Senate has not, however, taken definitive action on the convention. See Department of State *Bulletin*, June 7, 1954

An expanding world economy requires the improvement of living standards and the development of resources in areas where human poverty and misery now prevail. Without such improvement, the recovery of Europe and the future of our own economy will not be secure. I urge that the Congress adopt the legislation now before it[2] to provide for increasing the flow of technical assistance and capital investment to underdeveloped regions.

It is more essential now than ever, if the ideals of freedom and representative government are to prevail in these areas, and particularly in the Far East, that their people experience, in their own lives the benefits of scientific and economic advances. This program will require the movement of large amounts of capital from the industrial nations, and particularly from the United States, to productive uses in the underdeveloped areas of the world. Recent world events make prompt action imperative.

This program is in the interest of all peoples—and it has nothing in common with either the old imperialism of the last century or the new imperialism of the Communists.

Our aim for a peaceful, democratic world of free peoples will be achieved in the long run, not by force of arms, but by an appeal to the minds and hearts of men. If the peace policy of the democratic nations is to be successful, they must demonstrate that the benefits of their way of life can be increased and extended to all nations and all races.

In the world today, we are confronted with the danger that the rising demand of people everywhere for freedom and a better life may be corrupted and betrayed by the false promises of communism. In its ruthless struggle for power, communism seizes upon our imperfections, and takes advantage of the delays and setbacks which the democratic nations experience in their effort to secure a better life for their citizens. This challenge to us is more than a military challenge. It is a challenge to the honesty of our profession of the democratic faith; it is a challenge to the efficiency and stability of our economic system; it is a challenge to our willingness to work with other peoples for world peace and world prosperity.

For my part, I welcome the challenge. I believe that our country, at this crucial point in world history, will meet that challenge successfully. I believe that, in cooperation with the other free nations of the world, we shall extend the full benefits of the democratic way of life

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[1] For the abridged text of the Charter of International Trade Organization (Mar. 24, 1948), see *A Decade of American Foreign Policy*, pp. 391–409.

[2] i.e., the proposals which became the Act for International Development, approved June 5, 1950; see *infra*, pp. 3047–3054.

dictatorship and tyranny.

. . . .

As we move forward into the second half of the twentieth century we must always bear in mind the central purpose of our national life We do not seek material prosperity for ourselves because we lov luxury. We do not aid other nations because we wish to increase ou power. We have not devised programs for the security and well being of our people because we are afraid or unwilling to take risks This is not the meaning of our past history or our present course

We work for a better life for all, so that all men may put to goo use the great gifts with which they have been endowed by thei Creator. We seek to establish those material conditions of life i which, without exception, men may live in dignity, perform usefu ork, serve their communities, and worship God as they see fit.

These may seem simple goals, but they are not little ones. They are worth a great deal more than all the empires and conquests o history. They are not to be achieved by military aggression o political fanaticism. They are to be achieved by humbler means—by hard work, by a spirit of self-restraint in our dealings with on another, and by a deep devotion to the principles of justice an equality.

It should make us truly thankful, as we look back to the beginning of this country, that we have come so far along the road to a bette life for all. It should make us humble to think, as we look ahead how much farther we have to go to accomplish at home and abroa the objectives that were set out for us at the founding of this Nation

As we approach the halfway mark in the twentieth century, w should ask for continued strength and guidance from that Almight Power who has placed before us such great opportunities for the goo of mankind in the years to come.

2. “TOTAL DIPLOMACY” TO STRENGTHEN UNITED STATES LEADERSHIP FOR HUMAN FREEDOM: Summary of Remark by the Secretary of State, February 16, 1950 [1]

I would like to talk to you about the need today for “total diplomacy.” A few years ago, we in this country were fully acquainted wit the phrase “total war” and with the implications of that phrase. W knew that we were engaged in a life and death struggle with a powerfu foe and that if we were to be successful in that struggle we would hav o marshal all of the resources of the country. It was not sufficien merely to turn the problem over to the Department of Defense or t any other branch of the Government and expect that we could succeed It was necessary for each of us to play our assigned role in our commo defense, to establish controls of the most far-reaching sort, and, i other ways, to make sure that all of the forces of the country were directed in the most efficient manner possible to the winning of the war

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[1] At a meeting of the Advertising Council, the White House; Department o

Today, we are engaged in a struggle—that is the word to describe it—that is just as crucial from the point of view of the continued existence of our way of life, but we clearly are not focusing our total resources on the winning of that struggle.

For one thing, we have never taken the general activities of our country—which mean governmental activities—as seriously as we should in times of peace. We have regarded them with a good-natured tolerance expressed in the phrase, "Well, politics is politics.’ We have thought of politics as a legitimate field for trying to promote special interests. There is a tendency to shrug our shoulders over governmental shortcomings and faults. Moreover, while we have recognized that there were foreign claims upon us which our self-interest demanded that we attend to, we have not thought of them as being in the same category of importance as our own domestic business.

Then, too, it has been hard for us to convince ourselves that human nature is not pretty much the same the world over. We hear it said that if we could only get Harry Truman to "get his feet under the same table"—that is the phrase used—with Joe Stalin, we would be able to iron out any international difficulty. Our own experience with people in our own communities has been such that it has seemed to us that good intentions must, in the long run, prevail—and if one proposition didn't meet with acceptance, all we had to do was to think up a better one.

There has been an attitude on the part of some that if things went too far we might have to "call their bluff" and possibly have a show-down.

In brief, we have felt that, somehow or other, there was an answer to our problem if only we were smart enough to figure it out.

We must realize, however, that the world situation is not one to which there is an easy answer. The only way to deal with the Soviet Union, we have found from hard experience, is to create situations of strength. Wherever the Soviet detects weakness or disunity—and it is quick to detect them—it exploits them to the full. A "show-down," in the brutal and realistic sense, of resort to a military decision is not a possible policy for a democracy. The Kremlin knows that.

We are struggling against an adversary that is deadly serious. We are in a situation where we are playing for keeps. Moreover, we are in a situation where we could lose without ever firing a shot.

It used to be said that the progress of imperialism was, first, to send out missionaries, then traders, and then colonial governors. But that is kid stuff compared to the methods that we are up against. There dissatisfied with the way things were going in their country Moscow. There, they thoroughly indoctrinated them so t turned to China prepared to resort to any means whatsoev lish Communist control. They were completely subserv Moscow regime. (It is, of course, because Tito has thro subservience that the Tito development is regarded with s seriousness by Moscow.)[1] These agents then mingled amon and sold them on the personal material advantages of c They talked to the people in their own language. They turn over the land to them. (Of course, everybody know the land has been turned over to them and the Comm gotten control they immediately take the land back unde of "collectivization.")

But the Communists don't talk only in terms of econo We have all seen pictures from China of native dances out which were put on by the local Communist organization cases, they provided the only fun that these peasants h peasants were led to believe that the Communist organiza only group that provided the kind of life the peasants wa

The arsenal of the Communists is varied. I need not detail the uses which they make of force, threats, infiltrati chaos, despair and confusion, and the enslavement of the dominate by a shrewd use of informers.

Against this threat we must have a foreign policy wit related branches. First, we must be prepared to mee possible all thrusts of the Soviet Union. It will not alw sible to anticipate where these thrusts will take place, and always be able to deal with them with equal effectivene case of Greece and Turkey, we were able to meet that thrus because the Greeks and the Turks were determined to m independence.[2] There were a lot of Greeks and Turks t like their government. There were a lot that did. Bu united in a common belief that they preferred it to a government that might be imposed upon them from ou Greeks were able, with our assistance, to meet military military force. The Turks have successfully resisted t Soviet pressure brought against them. It should be bo that in this case we were not dealing with threats to Turkey alone. The thrust that the Soviet Union was m case was directed at domination of the entire Near Eas at all of Europe.

It has been suggested by some people that the Greek Governments were not our kind of democracy and therefo not have given them our aid. Of course, they do not exactly, in all its details, the kind that we would like to have either for them or for us. The only question that we should ask is whether they are determined to protect their independence against Communist aggression and if they are, we should recognize our basic unity with them on this point.

In the case of China, the Communist thrust succeeded because the Chinese people were not convinced that the National Government was concerned with their welfare. I do not think that this thrust could have been prevented so long as the Chinese people felt that we were supporting a government that they did not believe to be serving their interest.

The second part of our foreign policy must be to create those economic, political, social, and psychological conditions that strengthen and create confidence in the democratic way of life. In Indonesia for instance, we have been trying to make it plain to the Indonesians that we are sympathetic with their aspirations for independence They do not want to be ruled by the Dutch or by the Russians or by anyone else. They want to rule themselves. If we are to establish a solidarity with them, we must have Americans living among them who talk their language—I mean literally talk the Indonesian language—who understand them and are understood by them. We must do what we can to help them make the most of their natural resources. We do this not by building elaborate plants but by such things as enabling the Indonesian farmers to help themselves, to have better tools, and to use better methods than they have known before. We must see their problems from their point of view. We must help them, so far as we can, to reach their own goals.

In areas like Western Europe where there is a fully developed modern industrial economy, we must help the countries to take the measures that are necessary to put that economy on a sound basis

One of the things that we must do is to enable other countries to buy with their own products the raw materials that they need to feed and clothe and employ their own people. This means that we must buy their goods and their services to a greater extent than at present It is a matter of judgment as to what the level of our trade with the rest of the world should be, but probably it should be somewhere not very far from present levels. We must take that kind of action even though it requires adjustments here at home—and it will require some adjustments. Make no mistake about it, if we want to have strong allies in Europe, we have got to work out some kind of pattern of this kind. That will mean that European goods will compete with American goods and some American industries are likely to suffer If this should prove to be the case, then means must be found to take care of any resulting adjustments.

We are going to need self-discipline in what we say and do. What we say and do has tremendous importance in strengthening or weakening this country's leadership.

It is, of course, extremely difficult to get democracies to work together. The democratic approach, by its very nature, is a varied approach. It embodies freedom of action and freedom of decision but if we are to win against a power that has imposed complete unity on all of its members, we shall have to achieve, in our own way and by common determination, some unity of our own.

When we have reached unity and determination on the part of the free nations—when we have eliminated all of the areas of weakness that we can—we will be able to evolve working agreements with the Russians. We will not have to keep our ears to the ground in order to know when the Russians are prepared to recognize that they canno exploit a situation to their own benefit. In the case of Berlin,[1] when they realized that the airlift had prevented them from ousting the allies, we had no difficulty in learning when they came to that conclusion. Marshal Stalin announced it to the world in his answers to the Kingsbury Smith questions.[2] Similar questions had been on file in the Kremlin for months. They have drawers full of questions there today that they can haul out and answer whenever they realize that i is to their interest to do so.

No good would come from our taking the initiative in calling fo conversations at this point. Such an effort on our part would raise false hopes among some people and fears among others. The Russians would know that there was a public expectancy of results of some kind and those results could only be achieved by dangerous concessions on our part. Only the Russians would benefit from such a step.

The Russians know that we are ready, always have been ready always will be ready, to discuss with them any outstanding issue We have discussed with them all important outstanding issues, no once, but many times. It is clear that the Russians do not want to settle those issues as long as they feel there is any possibility they can exploit them for their own objectives of world domination. It is only when they come to the conclusion that they cannot so exploit them that they will make agreements and they will let it be known when they have reached that decision.

These are some of the things that I meant when I referred to "tota diplomacy." It means that all branches of the government mus work closely together. Congress and the Departments of Defense Treasury, Agriculture, and Commerce, and Interior Department, with its responsibility for our national resources, and the others, all hav roles to play that are just as important in our relations with othe people as the role of the Department of State.

And so it is with business, agriculture, and labor, with the pres and with the radio, with all of our great national organizations. W must agree voluntarily to concert our efforts to this one overriding task. If we do that, there can be little doubt that we shall succeed The non-Communist countries together have two-thirds of the world' underdeveloped areas achieve higher standards of living. They have on their side the appeal of independence and of national loyalties They have the greatest attraction of all—human freedom. With these forces on our side, provided we use them well and wisely, the chances of victory and of peace are good.

3. PLOWING A STRAIGHT FURROW: Extemporaneous Remarks by the Secretary of State, November 17, 1950 (Excerpt)[1]

. . . .

We have it on the highest of all possible authority that no man, having put his hand to the plow and looking back, is fit for the Kingdom of God.[2] No nation and no group of people who wish to lead a nation in this day and age in which we live are worthy of leadership, if at every moment they wish to tear up and examine the very roots of the policies upon which the whole future of the free world depends.

What are those policies and why is this so important? What is the whole question of foreign policy of the United States about?

In its relations with other nations this country, from its very beginning as a republic, has had one overwhelming direction in which it has gone and from which it has never varied. Its purpose and its direction, in its relations with other countries, have been to create and to maintain the environment in which the great American experiment in liberty could flourish and exist.

That is all we have asked of the world. We have no special interests that we want to achieve. We don't want to dominate anyone. We don't want territory. We don't want any of the things for which empires in the past have fought. We want only a world in which we can be free and in which everyone else can be free. And, just as the foundations of freedom in the United States are based on morality and moral purpose and moral responsibility, so relationships in the world are based on moral conviction and moral responsibility. We ask nothing for ourselves that we do not insist should be accorded to everyone. We are ready to help every nation in the world, just as we hope they would be ready to help us.

That has been the foundation of American foreign policy. There have been a lot of smart people and a lot of students who say, "Well, what are you trying to do? What is your purpose?" That is the purpose of American foreign policy. It always has been and it always will be.

There have been in our lifetime two occasions in which we have discovered that this effort to negotiate, to deal in friendliness, to deal with mutual helpfulness, has not been possible. Twice we have come to occasions when powers have decided to use force and war in order to create situations in the world where our sort of life could not exist.

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[1] Before the Annual Convention of the National Council of Negro Women, Washington; Department of State *Bulletin*, Nov. 27, 1950, pp. 840–841.

[2] Luke 9: 62

and terror which has been created, the United States has gone to war knowing that war settles nothing, but war prevents some things. After each war, American Presidents have hoped and believed that they could create a system in which this would not be necessary any more. Once this system was defeated by the unwillingness of our own country to go into this great experiment.

After the last war the United Nations was created. That great organization is founded on the three great principles which have animated American life and American policy from the very beginning. These are, first of all, that aggression shall not occur and that you shall not use force to settle international disputes. That has been one of the most fundamental concepts of American foreign policy.

Inherent in the Charter [1] is the second idea. That is that the human rights, the human freedoms—those great barriers which protect the individual from the incursion of the state—those shall be protected and built up because the very foundation of our moral concepts is that the individual is the test of all value. The worth of the individual is the ultimate worth upon this earth.

Third, we have had the concept in our life, and we have it in the United Nations, that we shall use our whole collective efforts to raise and to improve the standard of living of each person in this world so far as we can. We have this conception and this conviction, because we know that freedom from war, rights to exercise as individuals all become worthless if the individual is stricken with disease and poverty and misery, so that he cannot have that fullness of human life which is the end of all our democratic efforts on this globe.

That was the great purpose of the United Nations. Think what it would have meant if that had been possible. It was so easily possible because this whole concept of the United Nations was based on the idea that the great powers that had fought the war were going to continue in amity after the war and that they would subject themselves to the rule of morality and the rule of law and the smaller nations would come in with equal rights to speak and to have their views heard and to vote. But that great dream, or a large part of it has been frustrated by the action of the Soviet Union.

The United States has gone forward in the economic field, gone forward in the human rights field, gone forward in the effort to prevent war. The Soviet Union has been frustrating these efforts from the very beginning. And so we have come to another series of ideas—we must carry on these efforts within the free world and also, within the free world, we must build up a military shield. We cannot any longer count upon the good faith of nations to settle their dispute amicably.

When we see what happened in Korea, when we see what has happened in other parts of the world which are exposed to Soviet threats, we know that we cannot count upon restraint and on obedience to law and good will. And so through the North Atlantic

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[1] *Infra*, pp. 134–161.

Treaty[1] and through the Military Assistance Pact[2] and through the whole conception now of a unified force in the Atlantic community, we are building up a shield for the protection of free men. This is the center of the whole force of freedom. Behind this shield, free men can continue to build up their economic power and their economic welfare. And that has resulted in programs which are going forward in the Western World.

At the same time this has happened, we have seen the great surge of nationalism in the Far East. We have seen the great desire of the peoples of the Far East to free themselves from the misery under which they have lived and to build lives which will be worthy of human beings. We have done our best to help that.

Here is something of great complexity. Here is a thing which equires constancy of purpose. Here is a thing which requires year after year after year of effort. It requires building our own force, being faithful to our allies and to our friends, and never allowing discouragements to deflect us from our course, never allowing irritations between free nations to build up into friction which will divert us from our ends. It requires the greatest patience, the greatest courage, the greatest determination, to carry this forward.

In the light of what I said earlier, in the light of all these things, does it make sense to say, "I want to re-examine our programs? I want to look at this all over again to see whether we should have started on it?" Is that the role that a leader in these troublesome times, these dangerous times, wishes to take in the world today? I think your answer is that it is not.

We are in for a period of great struggle. We are in for a period of sacrifice. We are in for a time which will take all the courage we have. Anyone who offers you easy answers, anyone who says that your life can go on undisturbed in this time is not telling you the truth. It is not worthy of your courage because you will respond to leadership. But there is hope. This is not a long dismal road with no hope at the end. It is the only road with hope. A road which requires determination and courage is not one from which you will shrink.

Again, in the Book of First Corinthians it is written "that he that ploweth should plow in hope; and that he that thresheth in hope should be partaker of his hope."[3]

We must look forward both with hope, with courage, and with determination to the future. We are not looking back. We are not pulling up our roots. We have put our hand to the plow and, having done it, there is only one way to look—that way is forward.

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[1] Treaty of Apr. 4, 1949; *infra*, pp. 812–815.

[2] i.e., the Mutual Defense Assistance Act of 1949; see *A Decade of American Foreign Policy*, pp. 1356–1364.

[3] I Cor. 9: 10.

4. THE SHIELD OF FAITH: Address by the Secretary of State November 9, 1950 (Excerpts)[1]

In the complex field of foreign affairs—I hope you will not think it is a vocational exaggeration to describe it as complex—it is very easy to allow ourselves to become preoccupied with one aspect o another of the problems that beset us.

It is all too simple for us to fall into a habit of viewing our foreign relations as a succession of crises, each one momentarily all-absorbing

We have, as a nation, come but recently into our role of leadership in the world. Because our experience in this role is very brief, the perspective from which we view the problems it imposes on us is sometimes foreshortened in history. It is difficult for us to resist the temptation to let each critical aspect of our foreign affairs become in turn the central continent on our map of the world.

But although it is difficult, it is also essential that we avoid this disconnected and high-keyed approach to our responsibilities in the world.

It is necessary that we keep always before ourselves a sense of the "wholeness" of our relations with the rest of the world, if those relations are to be what we wish them to be.

Matthew Arnold, in praise of Sophocles, wrote that he "saw life steadily and saw it whole."[2] This precept, I think, applies with special force to that part of life which we call foreign affairs.

In one sense, to speak of the "wholeness" of our foreign relations calls to mind the fact that it involves, not just the formal acts of a few government officials, but a total contact between peoples.

The impact which our country has upon the people of the world is made up of many elements—the things which people say in this country, which, for better or for worse, are carried abroad by press or radio; the impressions which our people traveling abroad leave behind them; the experiences of visitors to this country.

. . . .

Indeed, in a democracy, our foreign relations grow out of, and are expressive of, our entire national life. They reflect our total culture. They operate within the context set by public opinion. They are affected by things which we used to think of as purely domestic.

This is one sense in which we can speak of the "wholeness" of our foreign relations.

But it is of another approach to this quality of "wholeness" that I should like to speak tonight.

If we are successfully to fulfill the responsibility of leadership in

It is only by a fusion of these two elements within ourselves that we shall have the integrity, as a nation, to give leadership to the people of the world.

We have been obliged, of late, to concern ourselves with the urgent problem of building military and economic strength in order to meet a great danger.

This effort has led some among us to accept the view that the ultimate reality in international relations is to be found only in terms of power, whether military or economic.

This is wrong. It leaves out of account the powerful intangibles which are an essential part of the reality of international relations Foremost among these is the moral and spiritual factor in human life

All but those who hold the most mechanical view of human nature must agree that the moral and spiritual ideal is a powerful motivation in international life, as it is in individual man.

It is possible that we have tended to undervalue the extent to which a sense of moral purpose has guided and inspired our own actions in the world, because we have been to a great degree inarticulate about our moral values.

Indeed, many in this country have been concerned about the problem of why communism has been able to set forth a neat package of its beliefs, whereas democracy seems to have such a hard time explaining what it is about.

In their efforts to give the democratic faith a more dynamic impact upon the people of the world, many have sought a credo, an ideology that would be expressive of democracy in a more simple form.

But it may be that the democratic faith is one of those things of which Justice Holmes said that they are better imparted by contagion than by argument.

. . . .

For democracy has no dogma, no orthodoxy. Its genius lies in the diversity which it encompasses.

When we speak of the moral purpose, or the democratic ideal which underlies our actions in the world, we do not mean to suggest that it is part of our purpose to export our own form of government everywhere in the world. We must have the humility to understand that democracy as we know it, with the particular political and economic relationships we have come to associate with it, is not the only form a free society may take.

But what we do believe to be universal in democracy is its conception of man's proper relationship to his fellow men—the essential worth of the individual, the freedom that is essential to his growth, and the

Voice of America.

Our moral purpose is an essential part of the "wholeness" of ou foreign relations which cannot be left aside. It must permeate al that we do. It must be always in our minds in order that the means we employ may never lead us away from the direction in which w wish to go.

I should like to put this as concretely as possible by referring t several principal aspects of our foreign policy program.

One of the major tasks before the free nations is that we shall buil our military strength quickly enough, and substantially enough, t protect ourselves against the possibility of aggression.

The threat is a grave one. The consequence of an inadequat response to it may easily be catastrophic.

But in responding to this threat, we must never allow ourselves t forget the purpose of our efforts to build our military strength.

Unless we have a constant awareness that our purpose is to maintain the peace so that the democratic values we cherish may continu their fruition, we run the risk of allowing power to become an end i itself.

We also run the risk of allowing ourselves to respond to this threa in ways which are self-defeating. It is only among those who hav lost their sense of proportion about the purpose for which we need t build our military strength that talk of preventive war is possible Only among these who have lost sight of our goals can there seem t be wisdom in self-destructive hysteria.

It is also clear that strength—even military strength—is not to b measured by a mere calculus of numbers of divisions, of tanks, and o weapons.

The vital adjunct of the strength of free societies lies in the consciousness of high purpose which free men carry with them. W have seen that the superficial strength of highly organized, totalitarian societies is brittle in adversity but that free societies have resilienc even in temporary defeat.

This durability arises out of the bond of brotherhood which unite free men. In the times in which we live, brotherhood among free me has become an indispensable condition for the survival of free society

But this moral conception is not by itself an automatic guarante of survival. It has to be backed with a very great effort.

To build our strength so that the things we believe in can surviv is the practical and vitally necessary expression in our times of ou moral dedication.

We cannot afford to neglect either half of the prescription t "put our faith in the Lord and keep our powder dry." [1]

It is equally important that, in the sphere of our activities abroa which we think of as "material," we shall have an ever-presen consciousness of our moral values and sense of purpose.

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[1] A slightly different phrasing, ascribed to Oliver Cromwell, appears in Bart

Now, so far, I have spoken of the need for keeping our moral purposes clearly in mind in carrying out the military and material aspects of our foreign policy.

But the problem of "wholeness," of achieving a union of our moral purpose and our physical power, does not operate only in this one direction.

It also requires that the moral influences in our society must be infused with a sense of responsibility toward our exercise of power.

Instead of a wholeness, we get a fragmentation, if those who have a keen sense of our moral obligations do not also think responsibly—that is, if they do not confront themselves with the actual conditions with which we must deal in the world, if they do not begin with the actual, available alternatives from which choices must be made.

Moral guidance is not effective if it directs itself to ideal, but unavailable, solutions.

Morality, if it is not to be divorced from the practical world of action must inform itself and relate itself to things as they are. The exercise of responsibility involves making real choices in a real world, which rarely affords the luxury of ideal conditions.

. . . .

To face up to this and to bring our moral idealism and our physical power into the same plane of focus is part of the problem of achieving a "wholeness." It is part of the problem of learning to bear our leadership responsibilities maturely. It is, in fact, part of the critical problem of our survival as a free people.

5. THE STRATEGY OF FREEDOM: Address by the Secretary of State, November 29, 1950 (Excerpts)[1]

. . . .

There are six main elements in the Strategy of Freedom.

First is the development of an international order for the preservation of peace and freedom under the United Nations. The Charter of the United Nations expresses the universal aspirations of mankind and the organization itself is a symbol of these aspirations. But the United Nations is also more than a symbol. It is a means through which we can take practical, day-by-day steps toward the building of a stable international community. As an organization in which most nations participate, the United Nations can also help to bring about the accommodations of interest and the adjustments of differences which are essential to peace in a world of change.

time. The keystone of the defense system of the free wo
built in the North Atlantic community, and among the s
Western Hemisphere.

. . . . . .

The essential ingredient in these regional developments
sense of community interest among neighbor nations. T
ment of further regional organizations depends in the fi
upon the existence of this community sense among the peo
areas.

The third element in our Strategy of Freedom is the rapid
of military strength at home and among our allies. I stre
"rapid" because the period of greatest danger is directl
Our defense must not only be strong enough, it must come s

There is only one test of whether our defense preparati
quate: That is to measure them against a sober calcula
danger which faces us.

So measured, the defense efforts of the United States
free nations are inadequate. A greatly increased scale a
effort is required on the part of all free nations to enable th
come this inadequacy at the earliest possible moment.

The fourth element is economic cooperation. This has a
acter. It contributes powerfully to the building of our defe
external attack. It also is an instrument for helping to b
societies in which the vitality and the promise of freedom fi
expression—in comparison with which the decadence an
Communist tyranny is starkly exposed.

Although the amount of resources available for economi
is limited by the defense requirements imposed upon u
action, even under the burden of rearmament, free societi
effectively provide for human well-being and advance
tyrannical regimes. The productive power of free men, wh
of the dangers that face them and who are determined
challenge to their freedom, cannot be matched by a
societies.

With our technical assistance, the resolve of the free
Latin America, Asia, Africa, and the Middle East to bet
ditions of their lives can become a powerful drive against
banes of poverty and disease and the political instability
accompanies them. Men everywhere have awakened to
tunities for progress which modern science and techn
opened. We can help them to help themselves, and it is in
to do so.

Our technical assistance is not philanthropy, for here o
and our self-interest coincide. As the people of underdev
rise from poverty, not only will our own economy bene
and even more important the real promise of freedom wil
false promises of Bolshevik imperialism, and the peoples o
tries will grow in their recognition of the common interest
of the free nations.

and collective security programs, is being carried on through the United Nations and regional organizations in order to strengthen international institutions devoted to peace and security.

The fifth element in the Strategy of Freedom is a readiness at all times to negotiate just settlements of international disputes and to find just accommodations of conflicting interests. Our experience has demonstrated that the Soviet rulers cannot be expected to accept fair and equal negotiation so long as they feel capable of imposing their own terms or exacting their own price. Their concept of negotiation is that it should record the facts of power rather than the requirements of justice. We shall not seek to use our power in this way, but as the free world develops strength, the Soviet rulers may find it advantageous to adjust differences equitably rather than to seek to impose their demands. The free nations must always be prepared to enter into genuine negotiations, and even to take the initiative in efforts to bring about honest negotiation.

. . . .

The sixth element in the Strategy of Freedom is a firm adherence in all our actions, at home and abroad, to the moral values which give meaning to our lives.

. . . .

If we are to be worthy of the leadership that derives from our power, we must be sure that we are true to the values and principles upon which our society is founded. It is the example of democracy at work, vigorous, healthy, respectful of its first principles, growing in freedom and justice and opportunity, that can inspire ourselves and others to meet the tasks ahead with hope and confidence.

. . . .

6. THE STATE OF THE UNION: Message by the President to the Congress, January 8, 1951 (Excerpts)[1]

This Eighty-second Congress faces as grave a task as any Congress in the history of our Republic.

The actions you take will be watched by the whole world. These actions will measure the ability of a free people, acting through their chosen representatives and their free institutions, to meet a deadly challenge to their way of life.

We can meet this challenge foolishly or wisely. We can meet it timidly or bravely, shamefully or honorably.

I know that the Eighty-second Congress will meet this challenge in a way worthy of our great heritage. I know that your debates will be earnest, responsible, and to the point. I know that from these debates there will come the great decisions needed to carry us forward condition. Our democratic institutions are sound and strong. W have more men and women at work than ever before. We are abl to produce more than ever before—in fact, far more than any countr [ever produced] in the history of the world.

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[1] Department of State *Bulletin*, Jan. 22, 1951, pp. 123–127; H. Doc. No. 1 82d Cong., 1st s

I am confident that we can succeed in the great task that lies befor us.

We will succeed, but we must all do our part. We must all ac together as citizens of this great Republic.

As we meet here today, American soldiers are fighting a bitte campaign in Korea.

We pay tribute to their courage, devotion, and gallantry.

Our men are fighting, alongside their United Nations allies, because they know, as we do, that the aggression in Korea is part o the attempt of the Russian Communist dictatorship to take over th world, step by step.

Our men are fighting a long way from home, but they are fightin for our lives and our liberties. They are fighting to protect ou right to meet here today—our right to govern ourselves as a free nation

The threat of world conquest by Soviet Russia endangers ou liberty and endangers the kind of world in which the free spirit o man can survive. This threat is aimed at all peoples who strive t win or defend their own freedom and national independence.

Indeed, the state of our Nation is in great part the state of ou friends and allies throughout the world. The gun that points a them points at us also.

The threat is a total threat and the danger is a common danger.

All free nations are exposed and all are in peril. Their onl security lies in banding together. No one nation can find protectio in a selfish search for a safe haven from the storm.

The free nations do not have any aggressive purpose. We wan only peace in the world—peace for all countries. No threat to th security of any nation is concealed in our plans or programs.

We had hoped that the Soviet Union, with its security assured b the Charter of the United Nations, would be willing to live and le live. But, [I am sorry to say,] that has not been the case.

The imperialism of the czars has been replaced by the even mor ambitious, more crafty, and more menacing imperialism of the ruler of the Soviet Union.

This new imperialism has powerful military forces. It is keepin millions of men under arms. It has a large air force and a stron submarine force. It has complete control of the men and equipmen of its satellites. It has kept its subject peoples and its economy i a state of perpetual mobilization.

The present rulers of the Soviet Union have shown that they ar willing to use this power to destroy the free nations and win domination over the whole world.

The Soviet imperialists have two ways of going about their destructive work. They use the method of subversion and internal revolu for either of these methods of attack, they stir up class strife and disorder. They encourage sabotage. They put out poisonous propaganda. They deliberately try to prevent economic improvement.

If their efforts are successful, they foment a revolution, as they did in Czechoslovakia [1] and China,[2] and as they tried unsuccessfully to do in Greece.[3] If their methods of subversion are blocked, and if they think they can get away with outright warfare, they resort to external aggression. This is what they did when they loosed the armies of their puppet states against the Republic of Korea, in an evil war by proxy.

We of the free world must be ready to meet both of these methods of Soviet action. We must not neglect one or the other.

The free world has power and resources to meet these two forms of aggression—resources that are far greater than those of the Soviet dictatorship. We have skilled and vigorous peoples, great industrial strength, and abundant sources of raw materials. And, above all, we cherish liberty. Our common ideals are a great part of our strength. These ideals are the driving force of human progress.

The free nations believe in the dignity and worth of man.

We believe in independence for all nations.

We believe that free and independent nations can band together into a world order based on law. We have laid the cornerstone of such a peaceful world in the United Nations.

We believe that such a world order can and should spread the benefits of modern science and industry, better health and education, more food and rising standards of living—throughout the world.

These ideals give our cause a power and vitality that Russian communism can never command.

The free nations, however, are bound together by more than [an] ideal. They are a real community bound together also by the ties of self-interest and self-preservation. If they should fall apart, the results would be fatal to human freedom.

Our own national security is deeply involved with that of the other free nations. While they need our support, we equally need theirs. Our national safety would be gravely prejudiced if the Soviet Union were to succeed in harnessing to its war machine the resources and the manpower of the free nations on the borders of its empire.

If Western Europe were to fall to Soviet Russia, it would double the Soviet supply of coal and triple the Soviet supply of steel. If the free countries of Asia and Africa should fall to Soviet Russia, we would lose the sources of many of our most vital raw materials, including uranium, which is the basis of our atomic power. And Soviet command of the manpower of the free nations of Europe and Asia would confront us with military forces which we could never hope to equal.

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[1] See *Communist Takeover and Occupation of Czechoslovakia* (H. Rept. No. 2684, 83d Cong., 2d sess., Part 14).

[2] See *A Decade of American Foreign Policy*, pp. 691–728, and *United States Relations with China with Special Reference to the Period 1944–1949* (Department of State publication 3573; 1949).

[3] *A Decade of American Foreign Policy*, pp. 753–782 and 1252–1267

the world, without resort to conflict, simply through the preponderance of its economic and military power. The Soviet Union does not have to attack the United States to secure domination of the world. It can achieve its ends by isolating us and swallowing up all our allies Therefore, even if we were craven enough—[and I do not believe that we could be—I say even if we were craven enough] to abandon our ideals, it would be disastrous for us to withdraw from the community of free nations.

We are the most powerful single member of this community, and we have a special responsibility. We must take the leadership in meeting the challenge to freedom and in helping to protect the rights of independent nations.

This country has a practical, realistic program of action for meeting this challenge.

First, we shall have to extend economic assistance, where it can be effective. The best way to stop subversion by the Kremlin is to strike at the roots of social injustice and economic disorder. People who have jobs, homes, and hopes for the future will defend themselves against the underground agents of the Kremlin. Our programs of economic aid have done much to turn back communism.

In Europe the Marshall Plan[1] has had electrifying results. As European recovery progressed, the strikes led by the Kremlin's agents in Italy and France failed. All over Western Europe, the Communist Party took worse and worse beatings at the polls.

The countries which have received Marshall Plan aid have been able, through hard work, to expand their productive strength—in many cases, to levels higher than ever before in their history. Without this strength, they would be completely incapable of defending themselves today. They are now ready to use this strength in helping to build a strong combined defense against aggression.

We shall need to continue some economic aid to European countries. This aid should now be specifically related to [the] building [of] their defenses.

In other parts of the world, our economic assistance will need to be more broadly directed toward economic development. In the Near East, in Africa, in Asia, we must do what we can to help people who are striving to advance from misery, poverty, and hunger. We also must continue to help the economic growth of our good neighbors in this hemisphere. These actions will bring greater strength for the free world. They will give many people a real stake in the future and reason to defend their freedom. They will mean increased production of the goods they need and the materials we need.

Second, we shall need to continue our military assistance to countries which want to defend themselves.

The heart of our common defense effort is the North Atlantic community. The defense of Europe is the basis for the defense of the whole free world—ourselves included. Next to the United States Europe is the largest workshop of the world. It is also a homeland

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[1] See *A Decade of American Foreign Policy*, pp. 1268–1327.

Strategically, economically, and morally the defense of Europe is part of our own defense.

That is why we have joined with the countries of Europe in the North Atlantic Treaty,[1] pledging ourselves to work with them.

There has been much discussion recently over whether the European countries are willing to defend themselves. Their actions are answering this question.

Our North Atlantic Treaty partners have strict systems of universal military training. Several have recently increased the term of service. All have taken measures to improve the quality of training Forces are being trained and expanded as rapidly as the necessary arms and equipment can be supplied from their factories and ours Our North Atlantic Treaty partners, together, are building armies bigger than our own.

None of the North Atlantic Treaty countries, including our own country, has done enough yet. But real progress is being made.

Together, we have worked out defense plans. The military leaders of our own country took part in working out these plans, and are agreed that they are sound and within our capabilities.

To put these plans into action, we sent to Europe last week one of our greatest military commanders, General Dwight D. Eisenhower

General Eisenhower went to Europe to assume command of the united forces of the North Atlantic Treaty countries, including our own forces in Germany.

The people of Europe have confidence in General Eisenhower They know his ability to put together a fighting force of allies. His mission is vital to our security. We should all stand behind him, and give him every bit of help we can.

Part of our job will be to reinforce the military strength of our European partners by sending them weapons and equipment as our military production expands.

Our program of military assistance extends to nations [of] the Near East and the Far East which are trying to defend their freedom. Soviet communism is trying to make these nations into colonies, and to use their people as cannon fodder in new wars of conquest We want their people to be free men and to enjoy peace.

Our country has always stood for freedom for the peoples of Asia [Long, long ago we stood for the freedom of the peoples of Asia.] Our history shows this. We have demonstrated it in the Philippines We have demonstrated it in our relations with Indonesia, India, and China. We hope to join in restoring the people of Japan to membership in the community of free nations.

It is in the Far East that we have taken up arms, under the United Nations, to preserve the principle of independence for free nations We are fighting to keep the forces of Communist aggression from making a slave state out of Korea.

Korea has tremendous significance for the world. It means that against aggression.

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[1] See *infra*, pp. 812–815.

We [will] understand the importance of this bes into history. If the democracies had stood up ag of Manchuria in 1931, or the attack on Ethiopia in 1 of Austria in 1938, if they had stood together aga those occasions as the United Nations has done, th our time would have been different.

The principles for which we are fighting in Ko just. They are the foundations of collective sec future of free nations. Korea is not only a countr torment of aggression; it is also a symbol. It sta justice in the world against oppression and slavery must always stand for these principles—and we w free world.

As the third part of our program, we will con peaceful settlements of international disputes. W United Nations and remain loyal to the great princip cooperation laid down in its Charter.

We are willing, as we have always been, to ne settlements with the Soviet Union. But we wi appeasement.

The Soviet rulers have made it clear that we m as well as right on our side. If we build our stre building it—the Soviet rulers may face the facts a plans to take over the world.

That is what we hope will happen, and that is w to bring about.

That is the only realistic road to peace.

These are the main elements of the course our N as a member of the community of free nations. Th we must do to preserve our security and help create But they will be successful only if we increase th own country.

Here at home we have some very big jobs to do. much stronger military forces—and we are buildin are preparing for full wartime mobilization, if that sh And we are continuing to build a strong and growi to maintain whatever effort may be required for as

We are building our own Army, Navy, and Air strength of nearly 3½ million men and women. W the training of the reserve forces, and establishi facilities, so that we can rapidly increase our acti on short notice.

We are going to produce all the weapons and equ an armed force will need. Furthermore, we will our allies, and weapons for our own reserve supplies we will build the capacity to turn out on short notice that may be needed for a full scale war.

. . . . .

Above all, we must remember that the fundamentals of our strength rest upon the freedoms of our people. We must continue our efforts to achieve the full realization of our democratic ideals. We must uphold freedom of speech and freedom of conscience in our land. We must assure equal right and equal opportunities to all our citizens.

As we go forward this year in the defense of freedom, let us keep clearly before us the nature of our present effort.

We are building up our strength, in concert with other free nations, to meet the danger of aggression that has been turned loose on the world. The strength of the free nations is the world's best hope of peace.

I ask the Congress for unity in these crucial days.

Make no mistake about my meaning. I do not ask, or expect, unanimity. I do not ask for an end to debate. Only by debate can we arrive at decisions which are wise and which reflect the desires of the American people. We do not have dictatorship in this country, and we will never have [one in this country].

When I request unity, what I am really asking for is a sense of responsibility on the part of every Member of this Congress. Let us debate the issues, but let every man among us weigh his words and deeds. There is a sharp difference between harmful criticism and constructive criticism. If we are truly responsible as individuals, I am sure that we will be unified as a government.

Let us keep our eyes on the issues and work for the things we all believe in.

Let each of us put our country ahead of our party, and ahead of our own personal interests.

I had the honor to be a Member of the Senate during World War II, and I know from experience that unity of purpose and of effort is possible in the Congress without any lessening of the vitality of our two-party system.

Let us all stand together as Americans. And let us stand together with all men everywhere who believe in human liberty.

Peace is precious to us. It is the way of life we strive for with all the strength and wisdom we possess. But more precious than peace are freedom and justice. We will fight, if fight we must, to keep our freedom and to prevent justice from being destroyed.

These are the things that give meaning to our lives, and which we acknowledge to be greater than ourselves.

This is our cause—peace, freedom, justice.

We will pursue this cause with determination and humility, asking divine guidance that in all we do we may follow God's will.

7. WAR OR PEACE AND THE SURVIVAL OF HUMA DOM: Statement by the Secretary of State Before t Armed Services and Foreign Relations Committees, Ju (Excerpt)[1]

. . . . . .

The basic premise of our foreign policy is that time is if we make good use of it. This does not necessarily mea must bring us to a point where we can match the Soviet for-man and tank-for-tank.

What it does mean is that we need to use the time we ha an effective deterrent force. This requires us to creat force-in-being, both in the United States and among ou shield our great potential against the possibility of a quic onslaught, and to ensure that our allies will not suffer occ destruction. And back of this shield we need to have t that would enable us to win a war.

This is the measure of the force we need; as we appr approach our objective of preventing war.

Can we do this? I believe we can. We and our alli capacity to out-produce the Soviet bloc by a staggering ma is no doubt about that. Our capacity to produce has motion and is rapidly getting to the point where its ou vast and its effect significant.

There is also the critical factor of our will. The futur freedom if free men have the will to make time work o I believe the American people and their allies do have t will to work together when their freedom is threatened.

This is the ultimate source of our faith and our confide society can call upon profound resources among its people a righteous cause.

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8. SECURING THE PEACE: Address by the Pres October 15, 1951 (Excerpts)[2]

. . . . . .

It is important to remember, as our defense program be out more and more weapons, and our alliances for defe take effect, that our basic objective—our only objective—

I am afraid that some people, here and abroad, belie creation of armed defenses must inevitably lead to war. the case. We do not think war is inevitable. We beli lasting arrangements that will prevent war. Our strength will make for peace.

We saw the folly of weakness in the days of Hitler. We know now that we must have defenses when there is an aggressor abroad in the world. But once we have defenses strong enough to prevent the sneaking, creeping kind of aggression that Hitler practiced—what is the next step? Must we then have a show-down and a war until one side or the other is completely victorious?

I think not. Our policy is based on the hope that it will be possible to live, without a war, in the same world as the Soviet Union—if the free nations have adequate defenses. As our defenses improve, the chances of negotiating successfully with the Soviet Union will increase. The growth of our defenses will help to convince the leaders of the Soviet Union that peaceful arrangements are in their own self-interest. And as our strength increases, we should be able to negotiate settlements that the Soviet Union will respect and live up to.

. . . .

We are determined to leave no stone unturned in this search not only for relief from the horror of another world war but also for the basis of a durable peace. I hope that the growing strength of the free world will convince the leaders of the Soviet Union that it is to their own best interest to lay aside their aggressive plans and their phony peace propaganda and join with us and the other free nations to work out practical arrangements for achieving peace.

. . . .

Twice within one generation we have spent our blood and our treasure in defense of human freedom. For six long years now we have contended, with all the weapons of the mind and spirit, against the adherents of the false god of tyranny. When the nations of Europe, our neighbors, were left, like the man in Scripture who fell among thieves, robbed and wounded and half dead, we have offered them our oil and our wine, without stint and without price.[1] When one of the newest and smallest nations of Asia was invaded, we led the free world to its defense.

These positive acts have not been easy to do. They have brought upon us hatred and threats and curses of the enemies of freedom—and may bring upon us even worse troubles. Nevertheless, if this Nation is justified by history, it is these things that will justify it and not the negative virtue of meaning no harm.

God forbid that I should claim for our country the mantle of perfect righteousness. We have committed sins of omission and sins of commission, for which we stand in need of the mercy of the good Lord. But I dare maintain before the world that we have done much that was right.

To the sowers of suspicion, and the peddlers of fear, to all those who seem bent on persuading us that our country is on the wrong voe and ruin lie ahead, I would say one thing: "Take off your blinders nd look to the future. The worst danger we face is the danger o eing paralyzed by doubts and fears. This danger is brought on by hose who abandon faith and sneer at hope. It is brought on by those vho spread cynicism and distrust and try to blind us to our great hance to do good for all mankind."

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[1] Luke 10:30–37.

9. THE STATE OF THE UNION: Message by the President to the Congress, January 9, 1952 (Excerpts)[1]

I have the honor to report to the Congress on the state of the Union

At the outset, I should like to speak of the necessity for putting first things first as we work together this year for the good of ou ountry.

The United States and the whole free world are passing through period of grave danger. Every action you take here in Congress, an every action I take as President, must be measured against the test o whether it helps to meet that danger.

. . . .

We are moving through a perilous time. Faced with a terribl threat of aggression, our Nation has embarked upon a great effort t help establish the kind of world in which peace shall be secure. Peac is our goal—not peace at any price, but a peace based on freedom an justice. We are now in the midst of our effort to reach that goal. O the whole, we have been doing very well.

Last year, 1951, was a year in which we threw back aggression added greatly to our military strength, and improved the chances fo peace and freedom in many parts of the world.

This year, 1952, is a crucial year in the defense effort of the whol free world. If we falter, we can lose all the gains that we have made If we drive ahead, with courage and vigor and determination, we ca by the end of 1952 be in a position of much greater security. The wa will be dangerous for years ahead, but if we put forth our best effort this year—and next year—we can be "over the hump" in our effort t build strong defenses.

When we look at the record of the past year, 1951, we find importan things on both the credit and the debit side of the ledger. We hav made great advances. At the same time we have run into new problems which must be overcome.

Let us look at the credit side first.

Peace depends upon the free nations sticking together, and makin a combined effort to check aggression and prevent war. In this respec 1951 was a year of great achievement.

In Korea the forces of the United Nations turned back the Chines Communist invasion, and did it without widening the area of conflic

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[1] H. Doc. No. 269, 82d Cong., 2d sess.; Department of State *Bulletin*, Jan. 2

The action of the United Nations in Korea has been a powerful deterrent to a third world war. However, the situation in Korea remains very hazardous. The outcome of the armistice negotiations is still uncertain.

In Indochina and Malaya our aid has helped our allies to hold back the Communist advance, although there are signs of further trouble in that area.

In 1951 we strengthened the chances of peace in the Pacific region by the treaties with Japan and by defense arrangements with Australia, New Zealand, and the Philippines.[1]

In Europe combined defense has become a reality. The free nations have created a real fighting force. This force is not yet as strong as it needs to be; but it is already a real obstacle to any attempt by hostile forces to sweep across Europe to the Atlantic.

In 1951 we also moved to strengthen the security of Europe by the agreement to bring Greece and Turkey into the North Atlantic Treaty.[2]

The United Nations, the world's great hope for peace, has come through a year of trial stronger and more useful than ever. The free nations have stood together in blocking Communist attempts to tear up the Charter.

At the present session of the United Nations in Paris,[3] we, together with the British and the French, offered a plan to reduce and control all armaments under a foolproof inspection system.[4] This is a concrete, practical proposal for disarmament.

But what happened? Vishinsky laughed at it. Listen to what he said: "I could hardly sleep at all last night . . . . I could not sleep because I kept laughing."[5] The world will be a long time forgetting the spectacle of that fellow laughing at disarmament.

Disarmament is not a joke. Vishinsky's laughter met with shock and anger from people all over the world. And, as a result, Mr. Stalin's representative received orders to stop laughing and start talking.

If the Soviet leaders were to accept this proposal, it would lighten the burden of armaments and permit the resources of the earth to be devoted to the good of mankind. But until the Soviet Union accepts a sound disarmament proposal, and joins in peaceful settlements, we have no choice except to build up our defenses.

During this past year we added more than a million men and women to our Armed Forces. The total is now nearly 3½ million. We have made rapid progress in the field of atomic weapons. We have turned out 16 billion dollars worth of military supplies and equipment, three times as much as the year before.

the Soviet Union in 1951 continued to expand its military production and increase its already excessive military power.

It is true that the Soviets have run into increasing difficulties Their hostile policies have awakened stern resistance among free men throughout the world. And, behind the iron curtain the Soviet rule of force has created growing political and economic stresses in the satellite nations.

Nevertheless, the grim fact remains that the Soviet Union is increasing its armed might. It is still producing more war planes than the free nations. It has set off two more atomic explosions The world still walks in the shadow of another world war.

. . . .

In other free countries the defense build-up has created severe economic problems. It has increased inflation in Europe and has endangered the continued recovery of our allies.

In the Middle East political tensions and the oil controversy in Iran are keeping the region in a turmoil. In the Far East the dark threat of Communist imperialism still hangs over many nations

This, very briefly, is the good side and the bad side of the picture

Taking the good and bad together, we have made real progress this last year along the road to peace. We have increased the power and unity of the free world. And, while we were doing this, we have avoided world war on the one hand and appeasement on the other This is a hard road to follow, but the events of the last year show that it is the right road to peace.

We cannot expect to complete the job overnight. The free nations may have to maintain for years the larger military forces needed to deter aggression. We must build steadily, over a period of years toward political solidarity and economic progress among the free countries in all parts of the world.

Our task will not be easy; but, if we go at it with a will, we can look forward to steady progress. On our side are all the great resources of freedom; the ideals of religion and democracy, the aspiration of people for a better life, and the industrial and technical power of a free civilization.

These advantages outweigh anything the slave world can produce The only thing that can defeat us is our own state of mind. We can lose if we falter.

The middle period of a great national effort like this is a very difficult time. The way seems long and hard. The goal seems far distant. Some people get discouraged. That is only natural.

But if there are any among us who think we ought to ease up in the fight for peace, I want to remind them of three things—just three things.

First: The threat of world war is still very real. We had one Pearl Harbor; let's not get caught off guard again. If you don't think the threat of Communist armies is real, talk to some of our men back from Korea.

Soviet-dominated world, it would destroy the life we know and the ideals we hold dear. Our allies are essential to us, just as we are essential to them. The more shoulders there are to bear the burden the lighter it will be.

Third: The things we believe in most deeply are under relentless attack. We have the great responsibility of saving the basic moral and spiritual values of our civilization. We have started out well, with a program for peace that is unparalleled in history. If we believe in ourselves and the faith we profess, we will stick to the job.

This is a time for courage, not for grumbling and mumbling.

Now, let us take a look at the things we have to do.

The thing that is uppermost in the minds of all of us is the situation in Korea. We must—and we will—keep up the fight there until we get the kind of armistice that will put an end to the aggression and protect the safety of our forces and the security of the Republic of Korea. Beyond that, we shall continue to work for a settlement in Korea that upholds the principles of the United Nations. We went into Korea because we knew that Communist aggression had to be met firmly if freedom was to be preserved in the world. We went into the fight to save the Republic of Korea, a free country, established under the United Nations. These are our aims. We will not give up until we attain them.

Meanwhile, we must continue to strengthen the forces of freedom throughout the world.

I hope the Senate will take early and favorable action on the Japanese peace treaty, on our security pacts with Pacific countries, and on the agreement to bring Greece and Turkey into the North Atlantic Treaty.[1]

We are also negotiating an agreement with the German Federal Republic under which it can play an honorable and equal part among nations and take its place in the defense of Western Europe.[2]

But treaties and plans are only the skeleton of our defense structure. The sinew and muscle of defense forces and equipment must be provided.

In Europe we must go on helping our friends and allies to build up their military forces. This means we must send weapons in large volume to our European allies. I have directed that weapons for Europe be given a very high priority. Economic aid is necessary, too, to supply the margin of difference between success and failure in making Europe a strong partner in our joint defense.

In the long run we want to see Europe freed from any dependence on our aid. Our European allies want that just as much as we do. The steps that are now being taken to build European unity should help bring that about. Five European countries are pooling their coal and steel production under the Schuman plan.[3] Work is going forward on the merger of European national forces on the Continent

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[1] For Senate action on these agreements, see *infra*, pp. 463–483, 864–871, 876–877, 882–885, and 893–896.

[2] For the texts of the agreements of May 26, 1952, see S. Execs. Q and R, 81st

1952.

We should do all we can to help and encourage the move toward a strong and united Europe.

In Asia the new Communist empire is a daily threat to millions of people. The peoples of Asia want to be free to follow their own way of life. They want to preserve their culture and their traditions against communism just as much as we want to preserve ours. They are laboring under terrific handicaps: poverty, ill health, feudal systems of land ownership, and the threat of internal subversion o external attack. We can and must increase our help to them.

That means military aid, especially to those places like Indochina which might be hardest hit by some new Communist attack.

It also means economic aid, both technical know-how and capital investment.

This last year we made available millions of bushels of wheat to relieve famine in India.[2] But far more important, in the long run is the work Americans are doing in India to help the Indian farmers themselves raise more grain. With the help of our technicians, Indian farmers, using simple inexpensive means, have been able since 1948 to double the crops in one area in India. One farmer there raised 63 bushels of wheat to the acre, where 13 bushels had been the average before.

This is our Point IV program at work. It is working—not only in India, but in Iran, Paraguay, Liberia—in 33 countries around the globe. Our technical missionaries are out there. We need more o them. We need more funds to speed their efforts, because there is nothing of greater importance in all our foreign policy. There is nothing that shows more clearly what we stand for and what we want to achieve.

My friends of the Congress, less than one-third of the expenditure for the cost of World War II would have created the developments necessary to feed the whole world so we would not have stomach communism, and unless we fight that battle and win it we cannot win the cold war or a hot one either.

. . . .

During the coming year we must not forget the suffering of the people who live behind the iron curtain. In those areas minorities are being oppressed, human rights violated, religion persecuted. We should continue to expose those wrongs. We should continue and expand the activities of the Voice of America, which brings our message of hope and truth to those peoples and other peoples throughout the world.

I have just had an opportunity to discuss many of these world problems with Prime Minister Churchill.[3] We have had a most satisfactory series of meetings. We thoroughly reviewed the situation in Europe, the Middle East, and the Far East. We both look

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[1] See *infra*, pp. 968–991, 1107–1196.

[2] See *infra*, pp. 2227–2229.

[3] See communiqué of Jan. 9, 1952, *infra*, pp. 1699–1701.

action and teamwork of the free nations.

. . . .

10. PROGRESS TOWARD INTERNATIONAL PEACE AND UNITY: Address by the Secretary of State, April 19, 1952 (Excerpts)[1]

. . . .

There is a temptation to look at the day-to-day events as a kind of verbal badminton game, in which some sort of poppycock goes back and forth across a net until someone scores a point. But the recent events I want to talk about are much more meaningful than moves in a propaganda game. They grow out of large policies and large purposes, both on our side and on the Communist side. And the stakes are still high: Whether there will be peace or war; whether our cherished values will survive.

Among other things, this spring has brought a whole series of Soviet moves which some people—mistakenly, I think—have grouped together and called a Soviet "peace offensive."

I think a better name for these procedures might be the "golden apple" tactic. You may remember a story in Greek mythology, in which all the gods were invited to a wedding except one, and that was the Goddess of Discord. She was upset about this, and she threw a golden apple over the fence, hoping to cause a ruckus among the guests and break up the party.

Several apples have been tossed over the Iron Curtain this spring. Happily, they have not produced discord. The reason why this is so must be sought against the background of the great constructive purposes we and our allies have been carrying forward and the persistently destructive actions of the Communist movement.

We have arrived at a climactic moment in the development of the community of free nations. From the end of the war, we have been part of a vast constructive effort to create an organization of society in the world which would be stable, enduring, and strong.

In place of the shattered and fragmented world left in the wake of the Second World War, we and others who share the same aspirations have been trying to create conditions in the world in which our principles of the worth of the individual and the unity of society could survive and could flourish. These are not merely pleasant evangelistic ideas which we think it would be nice to propagate.

These efforts grow out of the urgent necessities we face in the world and out of the basic fiber of American life.

No free society can exist—neither our own, nor any other—if there are large areas of instability and weakness in the world. And so we have sought to help create a fabric of international society which their traditions but who have in common a dedication to freedom who are healthy both economically and politically and whose commo strength is such that they need not live in fear.

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[1] Before the American Society of Newspaper Editors, Washington; Department of State *Bulletin*, Apr. 28, 1952, pp. 643-651.

What has been the role of the Soviet Union in this period? Yo who have reported the successive events of this story know only to well the long string of broken promises, the consistent blocking of ou attempts to settle problems, the long record of noncooperation an hostility. The Soviet rulers have demonstrated that they seek t perpetuate chaos. Their fundamental aim has been to block th constructive efforts of the non-Communist states and to exploi eakness and discontent.

I think perhaps the most revealing indication of this intention wa the Soviet rejection of the invitation to participate in the Europea Recovery Program.

Here, as late as 1947, was an offer by the United States to aid in th reconstruction, not only of Western Europe, but of all Europe. Th Soviet refusal, and Soviet-compelled rejection by its Easter European satellites, revealed more clearly than any other single gestur the direction of Soviet policy.[1]

The Soviet answer was not only a flat "no" but a countertactic The establishment of the Cominform [2] for the express purpose of de feating the Marshall Plan; and the Molotov Plan,[3] designed to brin the economies of Eastern Europe more firmly under Soviet control When we sought to pull down barriers to trade and mutual assistanc among all European nations, the Soviet answer was to raise stil higher the barriers along the Elbe and the Danube.

But despite these obstructions, and despite even the Communis se of force, we have been making progress. This progress has no been even in all parts of the world, because the needs and possibilitie have varied greatly from one area to another. But, taken togethe he results have been encouraging enough to demonstrate that we ar on the right track and must persevere.

In Europe, we have come to a very large and exciting conceptio which is on the verge of being realized. This is unity in Wester Europe within the framework of the Atlantic community.

I would like to talk about this at greater length in a moment First, I would like to sketch the world setting in which this movemen has been taking place.

In other parts of the world, our efforts have taken an almost infinit variety of forms but have been directed to the same purpose—to creat fabric of international life in which there can be freedom fro domination and opportunity to achieve individual and national fulfillment.

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[1] See vol. I, "General Report," of the *Report of the Committee of Europea Economic Cooperation* (Department of State publication 2930; 1947), pp. 8–9, an *Documents on International Affairs, 1947–1948* (London, 1952), pp. 30–58.

[2] For the text of the declaration on the establishment of the Cominform drafte at the conference of Russian and East European Communist Party representativ meeting at Wiliza Gora, Silesia, Sept. 22–23, 1947, see *ibid.*, pp. 122–125.

[3] What is here referred to as the "Molotov Plan" consisted of an intensificatio of the Russian effort to conclude a series of economic agreements between th Soviet Union and the countries of eastern Europe, a development already partl

In some areas, this has meant primarily efforts to develop the underlying conditions of the life of the people, so that there could be an orderly development toward freedom and progress. In other areas this has meant dealing with outright aggression by force of arms.

And over all this, there has been the creation and development of the United Nations, in which we have taken a leading part. We believed, and still believe, that a system founded on harmony of the great powers and the rule of law offers the best framework within which this diverse development could go forward.

Despite the fact that, at every step of the way, we have met nothing but obstructionism and hostility from the Soviet Union, we have been moving steadily, doggedly, and with a good measure of success, toward the fulfillment of our purposes.

The United Nations' success in halting and throwing back the aggression in Korea is a tremendous advance for collective security, which should not be obscured by the long and difficult negotiations to bring the fighting to an end.

Soviet obstruction has blocked great-power harmony but has not been able to stop the powerful advance of a collective-security system based upon the growing strength and unity of nations who believe in the Charter of the United Nations.

Despite Soviet efforts to obstruct, Japan is being restored to the community of nations. Without benefit of any assistance from the Soviet Union, many states have achieved their independence including Indonesia, the Philippines, Ceylon, Burma, Pakistan, and India.[1] We and the nations associated in the Colombo Plan,[2] again without benefit of any cooperation from the Soviet Union, are giving practical assistance to the peoples of South and Southeast Asia who are energetically striving to meet their own needs in their own way.

And that, indeed, is the touchstone of all our technical-cooperation programs and our policies throughout the Middle East and in all of Asia and Africa—what we seek to do is to help the people of these areas to fulfill their aspirations for self-government and individual freedom and material progress in a responsible way, in a peaceful and orderly way.

I think there is a growing understanding among the leaders of the people in these areas, despite the agonizing conflicts that arise as an inevitable part of this process of growth and development, that our purpose and our record is one of genuine help toward responsible and peaceful solutions. They have learned to be suspicious of the Communist Pied Piper who strides through this troubled area with a bag of tricky slogans and a pretty propaganda tune ing in Europe. Here all that has been going on since 1945—t grams of relief, of economic recovery, of bold and courageous to build stable governments free from foreign domination, growth toward vigorous military establishments capable of d attack—all these things have brought our friends in Europe threshold of the larger conception of the unity of all Western

European unity has been a goal for which men have stri centuries, by diplomacy and by force. What is important ab effort we see before us now is that it will bring together, in voluntary association, in practical institutions growing out urgent necessities of the times, much of Western Europe.

There is a kind of unity, perhaps, east of the Iron Curtain is the unity of the cemetery. This is an abomination agains nature; it is contrary to history and it cannot endure.

What has been going on in Western Europe is a totally thing. It will have strength because it meets human needs sires. It has been a process of practical growth, moving halt times, because it has sought to accommodate real conflicts by ation and peaceful persuasion.

The margin between success and failure in this operation ha times been a narrow one. The difficulties are deep and rea allies have been grappling with critical economic problems. have wrestled with ancient rivalries and painful memories o conflicts.

Despite all this, they have come now within sight of the g the thing that is at stake at this moment is whether they and be able to go forward to the realization of this conception. the issue.

Soft music has been coming out of Moscow, about peac existence, about peaceful trade and German unity. This Western newsmen and others would be more persuasive if th propagandists were not at the same time, out of the other their mouths, engaged in one of the most vicious and savage in their hate campaign against the West.

The Communists have trumped up a monstrous charge U.N. Command has used germ warfare in Korea. This cha been denied categorically and repeatedly by the U.N. Co in the field and by the Government of the United States in W ton. I deny it again here.

Not only this; but General Ridgway has offered to the Inter Red Cross every facility to investigate this charge behind lines. Although the Red Cross asked for similar facilities f Communists, they received instead only defamation and Again, when the World Health Organization offered to help any epidemics which might exist, they were ignored.

American newspaper enterprise has exposed the falsity alleged "proofs" of these charges advanced by the Communi the Voice of America and our other information media ha situation.

The Soviet so-called "peace campaign" might be more persuasive too, if our memories were so short that we forgot the Stockholm "peace appeal" of 1950[1]—a peace appeal which was immediately followed by the Communist attack on Korea.

Peaceful trade has been another subject of the current campaign Ostensibly called to examine world trade policies, a recent Moscow economic conference was used to unfold grandiose proposals for expanded trade.

The offers made by the President of the Soviet Chamber of Commerce linked machinery and herring, ships and lemons, ball bearings and textiles—a cunning mixture of consumer goods with items of strategic importance. By appearing to offer new markets, the Soviets seek to sow dissension and to secure strategic materials to build their war-making potential. The facts are, of course, that the consumer goods are available to them at any time they choose to purchase them and through normal channels.

Other pertinent facts, not advertised in Moscow, reveal current Soviet steps to halt trade between East Germany and Greece and the well-known, long-standing Soviet effort to starve Yugoslavia into submission by halting trade between that country and its neighbors.

The security controls, which we and other free governments have imposed over trade with the Soviet bloc, will continue to be necessary as long as the broad course of Soviet policy is directed toward the maintenance of a huge military machine.

In this connection, it is pertinent for us to note that the United States will increase immeasurably the attractiveness of this type of Soviet propaganda if we permit restrictionism here to shut out foreign goods. These restrictive practices will, of course, increase rather than lighten the burden on the American taxpayer.

Meanwhile, the Soviet Union has sent two notes to the British, the French, and ourselves concerning Germany.

In its first note, on March 10,[2] the Soviet Government urged that the four occupying powers should discuss the German peace treaty. The treaty they had in mind would permit the creation of a German national army and prohibit Germany from associating in Western European defense. The treaty they propose would also freeze the frontiers along the provisional lines discussed at Potsdam.

The three Governments replied to this note on March 25,[3] after consultation with the Government of the Federal Republic of Germany. This reply pointed out that a peace treaty could only be discussed with an all-German Government and that the existence of an all-German Government depended on the holding of free elections in the whole of Germany. They called attention to the fact that at

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[1] See the resolution adopted Mar. 19, 1950, by the Permanent Committee of the World Peace Congress meeting in Stockholm; *Documents on International Affairs, 1949–1950* (London, 1953), p. 139.

[2] Department of State *Bulletin*, Apr. 7, 1952, p. 531.

[3] *Infra*, pp. 1797–1798.

Potsdam it was decided that frontiers should be fixed in the treaty.

The three Governments, again on the basis of consultation w Federal Republic, also made it clear that they were engaged in forward step toward building up the unity of Western Europe t a common defense policy and that they intended to continue to that policy.

In its second note,[1] the Soviet Union repeated the negative p it had previously taken and made no affirmative proposals reg German unity or free elections. Instead, it continued to em proposals of what ought to go into a German peace treaty, disreg the necessity of having an all-German Government in order to peace treaty.

When it came to the question of free elections, the only p from the Soviet Union was that there be more discussion.

We and our allies have had considerable experience with the Union in discussing things, when there is no agreement on pri We have found that discussion, under these circumstances, is a ing action and a frustrating experience.

We cannot forget that these matters have been discussed rep at great length with the Soviet Union. This was done in 194 Council of Foreign Ministers meeting in Moscow [2] and again don;[3] in 1949, for weeks at the Council of Foreign Ministers in Paris;[4] and again for months at the Palais Rose in 1951.[5]

The main things that emerged from the Soviet discussion tions and the creation of a government which would have juris over the whole of Germany are these:

First, the Soviet Union never has been willing to relax in any whatever its control over Eastern Germany. The Soviet would never even discuss Soviet ownership over a vast am East German industry.

Second, the Soviet Government was bending every effort to i into Western Germany.

And third, they insisted that every major exercise of powe all-German Government should be subject to a Soviet veto.

These attitudes have never changed.

An analysis of the first Soviet communication shows plain what kind of elections they are prepared to permit. There is no reason to believe that they wish to have a Germany any less under their control, and they do not make their position on this point any clearer.

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[1] Dated Apr. 9, 1952; for text, see Department of State *Bulletin,* May pp. 819–820.

[2] For the texts of statements made by the Secretary of State at the Conference, held Mar. 10–Apr. 24, 1947, and his radio report to the Natio results of the conference, Apr. 28, 1947, see *A Decade of American Foreig* pp. 541–551 and 97–106.

[3] For the text of statements made by the Secretary of State at the Conference, held Nov. 25–Dec. 16, 1947, and his radio report to the Natio

Also, the Soviet Government continues to insist that a German Government shall be precluded at all times from associating itself with the great project of the unification of Western Europe.

The Soviet Union would like the Germans to think that there is a contradiction between unification of Western Europe and unification of Germany. There is not. Germany can be united and free as a full member of the free community of Europe. But a united Germany cut off from defense with and by the West could not be a free Germany. The German people have only to look across the curtain at their brothers in East Germany to see what the Soviet Union means by freedom.

We and our allies and the German people cannot forget the 7 years of fruitless negotiations with the Soviet Union to try to reach agreement on an honest basis for German Union. We cannot forget the Soviet walk-out from the Allied Control Council in Berlin, or the ruthless Soviet attempt to starve out the two million people of Berlin, or the Soviet termination of the quadripartite administration of the city of Berlin.[1]

Across the border from Germany are the Austrians who were promised their independence in 1943.[2] After 258 meetings between our deputies and the Soviet deputy, we and the Austrian people are still waiting for the Soviet Union to fulfill this promise.[3]

The Western Powers and the West Germans have made many proposals for free elections in Germany. The latest effort is being made through the United Nations, which set up a commission to investigate the possibilities of free elections throughout Germany.[4] That commission was granted free access to all Western Germany, but it still waits in vain for permission to enter Eastern Germany.

In the light of all this we are entitled to ask for some tangible evidence that there has been a shift in the Soviet position.

Our keen awareness of the past will not prevent us from giving serious attention to these or any other Soviet proposals. Together with the British, the French, and the Germans, we are studying the latest Soviet note. Of course, I cannot attempt here to forecast the course of these considerations.

We are willing and eager to resolve any or all major frictions in the world by peaceful negotiation, when and if there appears to be any earliest of this in our proposals for disarmament.[1]

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[1] For the story of the Berlin crisis of 1948–1949, see *A Decade of American Foreign Policy*, pp. 934–939; also, *The Berlin Crisis: A Report on the Moscow Discussions, 1948* (Department of State publication 3298; 1948) and *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 202–274.

[2] By the Three-Power Declaration on Austria, made at Moscow, Nov. 1, 1943; for text, see *A Decade of American Foreign Policy*, p. 11.

[3] See *infra*, pp. 1822–1832.

[4] See *infra*, pp. 1795–1809.

But we and our allies have made it clear that we cann
step backwards; we cannot jeopardize the emergence in
the new era of cooperation which is replacing the rivalry ar
of the past. And so we continue to give our full suppor
designed to secure the participation of Germany in a purely
European Community. For here is the true path of peace

If any believe that the Western attitudes lack in initiati
purely responses to Soviet stimulus, they must find here t
tion. Here they must see proof that we have been mov
right direction. Here they must see on the Soviet side re
the initiatives of the free nations in building soundly and s

As we survey the world around us, we still must take cog
the basic facts in the present situation. We are still confro
massive armed forces, backed by a huge military budget a
ful reserves. The military resources of the satellite natior
being mobilized. The peoples of these countries are bein
increasing isolation from the outside world and in calculated
of the truth. The Communist international movement is s
ing insurrection and subversion wherever it can. And veno
continues to pour out of the vast Soviet propaganda machi

There is only one way to hasten the day when we may
peaceful actions, not words, from the Soviet rules—and
push resolutely forward on our present course.

I repeat with undiminished belief what I said to you in 1
may be a long campaign. It will take nerve and steadfast
must be firm, and we must never close the door to agr
discussion.

Above all, we must hold fast to our faith in freedom w
some day prevail in all the world.

11. CONTINUITY AND RESPONSIBILITY IN THE C OF FOREIGN AFFAIRS: Statement Issued on Con Talks Between the President and the President-Elect, 18, 1952[2]

We have discussed some of the most important problem
our country in the sphere of international relations. In
with respect to these problems has been made available t
Eisenhower.

Under our Constitution the President must exercise his until he leaves office, and his successor cannot be asked to share or assume the responsibilities of the Presidency until he takes office.

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[1] See *infra*, pp. 2750–2760.

[2] Department of State *Bulletin*, Dec. 1, 1952, p. 850. President T
General Eisenhower met at the White House. After conferring by
they met with Secretary of State Acheson, Secretary of Defense Lovet
of the Treasury Snyder, and Mutual Security Director Harriman, a
Eisenhower's associates, Senator Lodge and Mr. Joseph E. Dodge.

We have worked out a framework for liaison and exchange of information between the present Administration and the incoming Administration, but we have made no arrangements which are inconsistent with the full spirit of our Constitution. General Eisenhower has not been asked to assume any of the responsibilities of the Presidency until he takes the oath of office.

We believe, however, that the arrangements we have made for cooperation will be of great value to the stability of our country and to the favorable progress of international affairs.

We are confident that this meeting and that the arrangements we have made today for liaison and cooperation between the present Administration and the new Administration furnish additional proof of the ability of the people of this country to manage their affairs with a sense of continuity and with responsibility.

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12. THE STATE OF THE UNION: Message by the President to the Congress, January 7, 1953 (Excerpts)[1]

I have the honor to report to the Congress on the state of the Union.

This is the eighth such report that, as President, I have been privileged to present to you and to the country. On previous occasions it has been my custom to set forth proposals for legislative action in the coming year. But that is not my purpose today. The presentation of a legislative program falls properly to my successor, not to me, and I would not infringe upon his responsibility to chart the forward course. Instead, I wish to speak of the course we have been following the past 8 years and the position at which we have arrived.

In just 2 weeks General Eisenhower will be inaugurated as President of the United States and I will resume, most gladly, my place as a private citizen of this Republic. The Presidency last changed hands 8 years ago this coming April. That was a tragic time: a time of grieving for President Roosevelt—the great and gallant human being who had been taken from us; a time of unrelieved anxiety to his successor, thrust so suddenly into the complexities and burdens of the Presidential office.

Not so this time. This time we see the normal transition under our democratic system. One President, at the conclusion of his term, steps back to private life; his successor, chosen by the people, begins his tenure of the office. And the Presidency of the United States must be mine until 12 o'clock noon on January 20. But together I hope and believe we have found means whereby the incoming President can obtain the full and detailed information he will need to assume the responsibility the moment he takes the oath of office.

The President-elect is about to take up the greatest burdens, the most compelling responsibilities, given to any man. And I, with you and all Americans, wish for him all possible success in undertaking the tasks that will so soon be his.

What are these tasks? The President is Chief of State, electe representative of all the people, national spokesman for them and t them. He is Commander in Chief of our Armed Forces. He is charged with the conduct of our foreign relations. He is Chief Executive of the Nation's largest civilian organization. He must selec and nominate all top officials of the executive branch and all Federa judges. And, on the legislative side, he has the obligation and the opportunity to recommend and to approve or veto legislation. Besides all this, it is to him that a great political party turns naturally fo leadership, and that, too, he must provide as President.

This bundle of burdens is unique; there is nothing else like it o the face of the earth. Each task could be a full-time job. Togethe they would be a tremendous undertaking in the easiest of times.

But our times are not easy; they are hard—as hard and complex perhaps, as any in our history. Now the President not only has t carry on these tasks in such a way that our democracy may grow an flourish and our people prosper, but he also has to lead the whole fre world in overcoming the Communist menace—and all this under th shadow of the atomic bomb.

This is a huge challenge to the human being who occupies th Presidential office. But it is not a challenge to him alone, for i reality he cannot meet it alone. The challenge runs not just to him but to his whole administration, to the Congress, to the country.

Ultimately, no President can master his responsibilities, save as his fellow citizens—indeed, the whole people—comprehend the challeng of our times and move, with him, to meet it.

It has been my privilege to hold the Presidential office for nearly 8 years now, and much has been done in which I take great pride But this is not personal pride. It is pride in the people, in the Nation It is pride in our political system and our form of government—balky sometimes, mechanically deficient perhaps, in many ways, but enormously alive and vigorous; able through these years to keep the Republic on the right course, rising to the great occasions, accomplishing the essentials, meeting the basic challenge of our times.

There have been misunderstandings and controversies these past 8 years, but through it all the President of the United States has had hat measure of support and understanding without which no ma could sustain the burdens of the Presidential office, or hope to discharg ts responsibilities.

For this I am profoundly grateful—grateful to my associates in the xecutive branch, most of them nonpartisan civil servants; grateful sides of the aisle; grateful especially to the American people, the citizens of this Republic, governors of us all.

We are still so close to recent controversies that some of us may find it hard to understand the accomplishments of these past 8 years But the accomplishments are real and very great, not as the President's, not as the Congress', but as the achievements of our country and all the people in it.

Let me remind you of some of the things we have done since I first assumed my duties as President of the United States.

I took the oath of office on April 12, 1945. In May of that same year the Nazis surrendered.[1] Then, in July,[2] that great white flash of light, man-made at Alamogordo, heralded swift and final victory in World War II and opened the doorway to the atomic age.

Consider some of the great questions that were posed for us by sudden, total victory in World War II. Consider also how well we, as a Nation, have responded.

. . . .

I come now to the most vital question of all, the greatest of our concerns: Could there be built in the world a durable structure of security, a lasting peace for all the nations, or would we drift, as after World War I, toward another terrible disaster—a disaster which this time might be the holocaust of atomic war?

That is still the overriding question of our time. We cannot know the answer yet; perhaps we will not know it finally for a long time to come. But day and night, these past 8 years, we have been building for peace, searching out the way that leads most surely to security and freedom and justice in the world for us and all mankind.

This, above all else, has been the task of our Republic since the end of World War II, and our accomplishment so far should give real pride to all Americans. At the very least a total war has been averted, each day up to this hour. And at the most we may already have succeeded in establishing conditions which can keep that kind of war from happening, for as far ahead as man can see.

The Second World War radically changed the power relationships of the world. Nations once great were left shattered and weak channels of communication, routes of trade, political and economic ties of many kinds were ripped apart.

And in this changed, disrupted, chaotic situation, the United States and the Soviet Union emerged as the two strongest powers of the world. Each had tremendous human and natural resources, actual or potential, on a scale unmatched by any other nation.

Nothing could make plainer why the world is in its present state—and how that came to pass—than an understanding of the diametrically opposite principles and policies of these two great powers in a war-ruined world.

For our part, we in this Republic were—and are—free men, heirs of of Independence:

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[1] The instrument of surrender was signed May 8, 1945; see *A Decade of American Foreign Policy*, pp. 505–506.

[2] July 16, 1945.

> . . . that all men are created equal, that they are endowed by their Creator with certain unalienable Rights . . . That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the overned, ...

Our postwar objective has been in keeping with this great idea. The United States has sought to use its preeminent position of power to help other nations recover from the damage and dislocation of the war. We held out a helping hand to enable them to restore their national lives and to regain their positions as independent, self-supporting members of the great family of nations. This help was given without any attempt on our part to dominate or control any nation. We did not want satellites but partners.

The Soviet Union, however, took exactly the opposite course.

Its rulers saw in the weakened condition of the world not an obligation to assist in the great work of reconstruction, but an opportunity o exploit misery and suffering for the extension of their power. Instead of help, they brought subjugation. They extinguished, blotted out, the national independence of the countries that the military operaions of World War II had left within their grasp.

The difference stares at us from the map of Europe today. To the west of the line that tragically divides Europe we see nations continuing to act and live in the light of their own traditions and principles. On the other side we see the dead uniformity of a tyrannical system imposed by the rulers of the Soviet Union. Nothing could point up more clearly what the global struggle between the free world and the Communists is all about.

It is a struggle as old as recorded history; it is freedom versus tyranny.

For the dominant idea of the Soviet regime is the terrible conception that men do not have rights but live at the mercy of the state.

Inevitably this idea of theirs—and all the consequences flowing from it—collided with the efforts of free nations to build a just and peaceful world. The "cold war" between the Communists and the free world is nothing more or less than the Soviet attempt to checkmate and defeat our peaceful purposes, in furtherance of their own dread objective.

We did not seek this struggle; God forbid. We did our utmost to avoid it. In World War II we and the Russians had fought side by side, each in our turn attacked and forced to combat by the aggressors. After the war we hoped that our wartime collaboration could be maintained, that the frightful experience of Nazi invasion, of devastation in the heart of Russia, had turned the Soviet rulers away from their old proclaimed allegiance to world revolution and Communist dominion. But instead they violated, one by one, the solemn agreements they had made with us in wartime.[1] They sought to misuse the rights and privileges they had obtained in the United

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[1] See *A Decade of American Foreign Policy*, pp. 919–933, and *infra*, pp. 1937–1944

Nations; to frustrate its purposes and cut down its powers as an effective agent of world progress and the keeper of the world's peace.

Despite this outcome the efforts we made toward peaceful collaboration are a source of our present strength. They demonstrated that we believed what we proclaimed, that we actually sought honest agreements as the way to peace. Our whole moral position, our leadership in the free world today, is fortified by that fact.

The world is divided, not through our fault or failure, but by Soviet design. They, not we, began the cold war. And because the free world saw this happen—because men know we made the effort and the Soviet rulers spurned it—the free nations have accepted leadership from our Republic in meeting and mastering the Soviet offensive.

It seems to me especially important that all of us be clear, in our own thinking, about the nature of the threat we have faced—and will face for a long time to come. The measures we have devised to meet it take shape and pattern only as we understand what we were, and are, up against.

The Soviet Union occupies a territory of 8,000,000 square miles. Beyond its borders, east and west, are the nearly 5,000,000 square miles of the satellite states—virtually incorporated into the Soviet Union—and of China, now its close partner. This vast land mass contains an enormous store of natural resources sufficient to support an economic development comparable to our own.

That is the Stalinist world. It is a world of great natural diversity in geography and climate, in distribution of resources, in population, language, and living standards, in economic and cultural development. It is a world whose people are not all convinced Communists by any means. It is a world where history and national traditions, particularly in its borderlands, tend more toward separation than unification, and run counter to the enforced combination that has been made of these areas today.

But it is also a world of great man-made uniformities, a world that bleeds its population white to build huge military forces; a world in which the police are everywhere and their authority unlimited; a world where terror and slavery are deliberately administered both as instruments of government and as means of production; a world where all effective social power is the state's monopoly—yet the state itself is the creature of the Communist tyrants.

The Soviet Union, with its satellites, and China are held in the tight grip of Communist Party chieftains. The party dominates all social and political institutions. The party regulates and centrally directs the whole economy. In Moscow's sphere, and in Peiping's, all history, philosophy, morality, and law are centrally established by dedicated foreign Communists, people in nearly every free who will serve Moscow's ends. Thus the masters of the Kre provided with deluded followers all through the free world, wh can manipulate, cynically and quite ruthlessly, to serve the of the Soviet state.

Given their vast internal base of operations, and their a foreign lands, what are the Communist rulers trying to do?

Inside their homeland the Communists are trying to main modernize huge military forces. And, simultaneously, they deavoring to weld their whole vast area and population into pletely self-contained, advanced industrial society. They ai day, to equal or better the production levels of Western Eu North America combined—thus shifting the balance of wo nomic power, and war potential, to their side.

They have a long way to go, and they know it. But prepared to levy upon living generations any sacrifice th strengthen their armed power, or speed industrial developm

Externally the Communist rulers are trying to expand the aries of their world, whenever and wherever they can. Thi sion they have pursued steadfastly since the close of World using any means available to them.

Where the Soviet Army was present, as in the countries of Europe, they have gradually squeezed free institutions to dea

Where postwar chaos existed in industrialized nations, as in Europe, the local Stalinists tried to gain power through processes, politically inspired strikes, and every available m subverting free institutions to their evil ends.

Where conditions permitted, the Soviet rulers have stimula aided armed insurrection by Communist-led revolutionary f in Greece,[1] Indochina,[2] the Philippines,[3] and China,[4] or outrigh sion by one of their satellites, as in Korea.[5]

Where the forces of nationalism, independence, and an e change were at work throughout the great sweep of Asia and the Communists tried to identify themselves with the cause ress, tried to picture themselves as the friends of freedom and a ment—surely one of the most cynical efforts of which histo record.

Thus everywhere in the free world the Communists seek t troubled waters, to seize more countries, to enslave more mi human souls. They were, and are, ready to ally themselves w group, from the extreme left to the extreme right, that offers opportunity to advance their ends.

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[1] *A Decade of American Foreign Policy*, pp. 753–782 and 1252–1267.

[2] *Infra*, pp. 2363–2369.

[3] *Infra*, pp. 2357–2359.

[4] *A Decade of American Foreign Policy*, pp. 691–728, and *United States with China with Special Reference to the Period 1944–1949* (Department State publication 3573; 1949).

[5] See *infra*, pp. 2536–2626.

sensitive and vital areas in the free world around them. So situated, they can use their armies and their economic power to set up simultaneously a whole series of threats, or inducements, to such widely dispersed places as Western Germany, Iran, and Japan. These pressures and attractions can be sustained at will, or quickly shifted from place to place.

Thus the Communist rulers are moving, with implacable will, to create greater strength in their vast empire, and to create weakness and division in the free world, preparing for the time their false creed teaches them must come: The time when the whole world outside their sway will be so torn by strife and contradictions that it will be ripe for the Communist plucking.

This is the heart of the distorted Marxist interpretation of history. This is the glass through which Moscow and Peiping look out upon the world, the glass through which they see the rest of us. They seem really to believe that history is on their side. And they are trying to boost "history" along, at every opportunity, in every way they can.

I have set forth here the nature of the Communist menace confronting our Republic and the whole free world. This is the measure of the challenge we have faced since World War II—a challenge partly military and partly economic, partly moral and partly intellectual, confronting us at every level of human endeavor and all around the world.

It has been and must be the free world's purpose not only to organize defenses against aggression and subversion, not only to build a structure of resistance and salvation for the community of nations outside the iron curtain, but in addition to give expression and opportunity to the forces of growth and progress in the free world, to so organize and unify the cooperative community of free men that we will not crumble but grow stronger over the years, and the Soviet Empire, not the free world, will eventually have to change its ways or fall.

Our whole program of action to carry out this purpose has been directed to meet two requirements.

The first of these had to do with security. Like the pioneers who settled this great continent of ours, we have had to carry a musket while we went about our peaceful business. We realized that if we and our allies did not have military strength to meet the growing Soviet military threat, we would never have the opportunity to carry forward our efforts to build a peaceful world of law and order—the only environment in which our free institutions could survive and flourish.

Did this mean we had to drop everything else and concentrate on armies and weapons? Of course it did not; side by side with this urgent military requirement, we had to continue to help create conditions of economic and social progress in the world. This work had to be carried forward alongside the first, not only in order to meet the nonmilitary aspects of the Communist drive for power, but also because this creative effort toward human progress is essential to brin about the kind of world we as freemen want to live in.

These two requirements—military security and human progress—are more closely related in action than we sometimes recognize Military security depends upon a strong economic underpinning an a stable and hopeful political order; conversely, the confidence tha makes for economic and political progress does not thrive in area that are vulnerable to military conquest.

These requirements are related in another way. Both of the depend upon unity of action among the free nations of the world This, indeed, has been the foundation of our whole effort, for th drawing together of the free people of the world has become a condition essential not only to their progress but to their survival as fre people.

This is the conviction that underlies all the steps we have been taking to strengthen and unify the free nations during the past 7 years

What have these steps been? First of all, How have we gon about meeting the requirement of providing for our security agains this world-wide challenge?

Our starting point, as I have said on many occasions, has been an remains the United Nations.

We were prepared, and so were the other nations of the free world to place our reliance on the machinery of the United Nations to safeguard peace. But before the United Nations could give full expressio to the concept of international security embodied in the Charter, i was essential that the five permanent members of the Security Counci honor their solemn pledge to cooperate to that end. This the Sovie Union has not done.

I do not need to outline here the dreary record of Soviet obstructio and veto and the unceasing efforts of the Soviet representatives t sabotage the United Nations. It is important, however, to distinguish clearly between the principle of collective security embodied in the Charter and the mechanisms of the United Nations to give tha principle effect. We must frankly recognize that the Soviet Unio has been able, in certain instances, to stall the machinery of collectiv security. Yet it has not been able to impair the principle of collective security. The free nations of the world have retained thei allegiance to that idea. They have found the means to act despit the Soviet veto, both through the United Nations itself and throug the application of this principle in regional and other security arrangements that are fully in harmony with the Charter and give expressio to its purposes.

The free world refused to resign itself to collective suicide merel treaties we have concluded to reinforce security in the Pacific area.[3]

But the free nations have not this time fallen prey to the dangerous illusion that treaties alone will stop an aggressor. By a series of vigorous actions, as varied as the nature of the threat, the free nations have successfully thwarted aggression or the threat of aggression in many different parts of the world.

Our country has led or supported these collective measures. The aid we have given to people determined to act in defense of their freedom has often spelled the difference between success and failure.

We all know what we have done, and I shall not review in detail the steps we have taken. Each major step was a milepost in the developing unity, strength, and resolute will of the free nations.

The first was the determined and successful effort made through the United Nations to safeguard the integrity and independence of Iran in 1945 and 1946.[4]

Next was our aid and support to embattled Greece, which enabled her to defeat the forces threatening her national independence.[5]

In Turkey cooperative action resulted in building up a bulwark of military strength for an area vital to the defenses of the entire free world.[6]

In 1949 we began furnishing military aid to our partners in the North Atlantic Community and to a number of other free countries.[7]

The Soviet Union's threats against Germany and Japan, its neighbors to the west and to the east, have been successfully withstood. Free Germany is on its way to becoming a member of the peaceful community of nations, and a partner in the common defense.[8] The Soviet effort to capture Berlin by blockade was thwarted by the courageous Allied airlift.[9] An independent and democratic Japan has been brought back into the community of free nations.[10]

In the Far East the tactics of Communist imperialism have reached heights of violence unmatched elsewhere, and the problem of concerted action by the free nations has been at once more acute and more difficult.

Here, in spite of outside aid and support, the free Government of

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[1] *Infra*, pp. 812–815.

[2] *Infra*, pp. 853–854.

[3] See *infra*, pp. 873–875, 878–880, and 885–886.

[4] For a brief summary of the Iranian case in the United Nations, see *The United States and the United Nations: Report by the President to the Congress for the Year 1946* (Department of State publication 2735; 1947), pp. 33–34; the details appear in the issues of the Department of State *Bulletin* of Dec. 2, 1945, p. 884; Dec. 9, 1945, pp. 934–935; Mar. 17, 1946, pp. 435–436; Mar. 24, 1946, p. 483; Mar. 31, 1946, p. 529; Apr. 7, 1946, pp. 568–573; Apr. 21, 1946, pp. 620–621 and 657–660; Apr. 28, 1946, pp. 706–709; May 5, 1946, pp. 752–753; May 19, 1946, pp. 849–850 and 853–854; June 2, 1946, pp. 941–942; and June 9, 1946, p. 987.

[5] *A Decade of American Foreign Policy*, pp. 753–782 and 1252–1267.

[6] *Ibid.*, pp. 902–906, 1252–1261, and 1265–1267.

[7] *Ibid.*, pp. 1356–1364.

[8] *Infra*, pp. 1709–1728.

[9] *A Decade of American Foreign Policy*, pp. 934–939, and *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 202–274.

[10] *Infra*, pp. 425–441, 2405, and 2425–2427.

the free Chinese to rebuild and strengthen their forces on the island o Formosa.[2] In other areas of the Far East—in Indochina,[3] Malaya, and the Philippines [5]—our assistance has helped sustain a stanch resistance against Communist insurrectionary attacks.

The supreme test, up to this point, of the will and determination o the free nations came in Korea, when Communist forces invaded th Republic of Korea, a state that was in a special sense under the pro tection of the United Nations.[6] The response was immediate an resolute. Under our military leadership the free nations for the firs time took up arms, collectively, to repel aggression.

Aggression was repelled, driven back, punished. Since that tim Communist strategy has seen fit to prolong the conflict, in spite o honest efforts by the United Nations to reach an honorable truce The months of deadlock have demonstrated that the Communist cannot achieve by persistence, or by diplomatic trickery, what they failed to achieve by sneak attack. Korea has demonstrated that th free world has the will and the endurance to match the Communis effort to overthrow international order through local aggression.

It has been a bitter struggle and it has cost us much in brave live and human suffering, but it has made it plain that the free nation will fight side by side, that they will not succumb to aggression o intimidation, one by one. This, in the final analysis, is the only way to halt the Communist drive to world power.

At the heart of the free world's defense is the military strength o the United States.

From 1945 to 1949 the United States was sole possessor of the atomi bomb. That was a great deterrent and protection in itself.

But when the Soviets produced an atomic explosion [7]—as they were bound to do in time—we had to broaden the whole basis of ou strength. We had to endeavor to keep our lead in atomic weapons We had to strengthen our Armed Forces generally and to enlarge ou productive capacity—our mobilization base. Historically, it was th Soviet atomic explosion in the fall of 1949, 9 months before th aggression in Korea, which stimulated the planning for our progran of defense mobilization.

What we needed was not just a central force that could strike back against aggression. We also needed strength along the outer edges o the free world, defenses for our allies as well as for ourselves, strengt to hold the line against attack as well as to retaliate.

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[1] *A Decade of American Foreign Policy*, pp. 691–728, and *United States Relation with China with Special Reference to the Period 1944–1949* (Department of State publication 3573; 1949).

[2] *Infra*, pp. 2448–2471.

[3] *Infra*, pp. 2363–2369.

[4] *See Malaya: Trouble Spot in Southeast Asia* (Department of State publicatio 5061; 1953).

[5] *A Decade of American Foreign Policy*, pp. 881–885, and *infra*, pp. 873–877 an 2355–2359.

[6] *See infra*, pp. 2536–2625.

[7] See statement issued by President Truman, Sept. 23, 1949, announcing evidence of an atomic explosion in the U.S.S.R.; *A Decade of American Foreign*

In the last 2½ years we have more than doubled our own defenses, and we have helped to increase the protection of nearly all the other free nations.

All the measures of collective security, resistance to aggression, and the building of defenses, constitute the first requirement for the survival and progress of the free world. But, as I have pointed out, they are interwoven with the necessity of taking steps to create and maintain economic and social progress in the free nations. There can be no military strength except where there is economic capacity to back it. There can be no freedom where there is economic chaos or social collapse. For these reasons our national policy has included a wide range of economic measures.

In Europe the grand design of the Marshall plan [1] permitted the people of Britain and France and Italy and a half dozen other countries, with help from the United States, to lift themselves from stagnation and find again the path of rising production, rising incomes, rising standards of living. The situation was changed almost overnight by the Marshall plan; the people of Europe have a renewed hope and vitality, and they are able to carry a share of the military defense of the free world that would have been impossible a few years ago.

Now the countries of Europe are moving rapidly toward political and economic unity, changing the map of Europe in more hopeful ways than it has been changed for 500 years. Customs unions,[2] European economic institutions like the Schuman plan,[3] the movement toward European political integration,[4] the European Defense Community,[5] all are signs of practical and effective growth toward greater common strength and unity. The countries of Western Europe, including the free Republic of Germany are working together, and the whole free world is the gainer.

It sometimes happens, in the course of history, that steps taken to meet an immediate necessity serve an ultimate purpose greater than may be apparent at the time. This, I believe, is the meaning of what has been going on in Europe under the threat of aggression. The free nations there, with our help, have been drawing together in defense of their free institutions. In so doing they have laid the foundations of a unity that will endure as a major creative force beyond the exigencies of this period of history. We may, at this close range, be but dimly aware of the creative surge this movement represents, but I believe it to be of historic importance. I believe its benefits will survive long after Communist tyranny is nothing but an unhappy memory.

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[1] See *A Decade of American Foreign Policy*, pp. 1268–1327.

[2] See articles by Howard J. Hilton, Jr., "Benelux—A Case Study in Economic Union," Department of State *Bulletin*, July 31, 1950, pp. 181–188, and "The European Customs Union Study Group," *ibid.*, Aug. 14, 1950, pp. 251–255; also, press communiqué of July 28, 1950, on the Sixth Session of the European Customs Union Study Group, *ibid.*, Sept. 4, 1950, pp. 393–394.

[3] *Infra*, pp. 1039–1097.

[4] *Infra*, pp. 968–971, 1001–1012.

[5] *Infra*, pp. 1107–1198.

In Asia and Africa the economic and social problems are different but no less urgent. There hundreds of millions of people are in ferment, exploding into the twentieth century, thrusting toward equality and independence and improvement in the hard conditions of their lives.

Politically, economically, socially, things cannot and will not stay in their prewar mold in Africa and Asia. Change must come, is coming, fast. Just in the years I have been President, 12 free nations, ith more than 600,000,000 people, have become independent: Burma, Indonesia, the Philippines, Korea, Israel, Libya, India, Pakistan and Ceylon, and the three Associated States of Indochina, now members of the French Union.[1] These names alone are testimony to the sweep of the great force which is changing the face of half the world.

Working out new relationships among the peoples of the free world would not be easy in the best of times. Even if there were no Communist drive for expansion, there would be hard and complex problems of transition from old social forms, old political arrangements, old economic institutions to the new ones our century demands—problems f guiding change into constructive channels, of helping new nations grow strong and stable. But now, with the Soviet rulers striving to exploit this ferment for their own purposes, the task has become harder and more urgent—terribly urgent.

In this situation we see the meaning and the importance of the Point IV program,[2] through which we can share our store of know-how and of apital to help these people develop their economies and reshape their ocieties. As we help Iranians to raise more grain, Indians to reduce he incidence of malaria, Liberians to educate their children better we are at once helping to answer the desires of the people for advancement, and demonstrating the superiority of freedom over communism There will be no quick solution for any of the difficulties of the new nations of Asia and Africa—but there may be no solution at all if we do not press forward with full energy to help these countries grow and flourish in freedom and in cooperation with the rest of the free world

Our measures of economic policy have already had a tremendous effect on the course of events. Eight years ago the Kremlin thought postwar collapse in Western Europe and Japan—with economic dislocation in America—might give them the signal to advance. We demonstrated they were wrong. Now they wait with hope that the economic recovery of the free world has set the stage for violent and isastrous rivalry among the economically developed nations struggling for each other's markets and a greater share of trade years immediately ahead. And it will take great ingenuity an effort—and much time—before we prove the Kremlin wrong again But we can do it. It is true that economic recovery presents its problems, as does economic decline, but they are problems of another order. They are the problems of distributing abundance fairly, an they can be solved by the process of international cooperation that has already brought us so far.

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[1] Burma became independent Jan. 4, 1948; Indonesia, Dec. 28, 1949; the Philippines, July 4, 1946; Korea and Israel proclaimed themselves republics Aug

These are the measures we must continue. This is the path we must follow. We must go on, working with our free associates building an international structure for military defense and for economic, social, and political progress. We must be prepared for war because war may be thrust upon us. But the stakes in our search for peace are immensely higher than they have ever been before.

For now we have entered the atomic age, and war has undergone a technological change which makes it a very different thing from what it used to be. War today between the Soviet Empire and the free nations might dig the grave not only of our Stalinist opponents but of our own society, our world as well as theirs.

This transformation has been brought to pass in the 7 years from Alamogordo to Eniwetok.[1] It is only 7 years, but the new force o atomic energy has turned the world into a very different kind of place.

Science and technology have worked so fast that war's new meaning may not yet be grasped by all the peoples who would be its victims; nor, perhaps, by the rulers in the Kremlin. But I have been President of the United States, these 7 years, responsible for the decisions which have brought our science and our engineering to their present place. I know what this development means now. I know something o what it will come to mean in the future.

We in this Government realized, even before the first successful atomic explosion, that this new force spelled terrible danger for all mankind unless it were brought under international control. We promptly advanced proposals in the United Nations [2] to take this new source of energy out of the arena of national rivalries; to make it impossible to use as a weapon of war. These proposals, so pregnant with benefit for all humanity, were rebuffed by the rulers of the Soviet Union.

The language of science is universal; the movement of science is always forward into the unknown. We could not assume that th Soviet Union would not develop the same weapon, regardless of all our precautions, nor that there were not other and even more terrible means of destruction lying in the unexplored field of atomic energy.

We had no alternative, then, but to press on, to probe the secrets of atomic power to the uttermost of our capacity, to maintain, if we could, our initial superiority in the atomic field. At the same time we sought persistently for some avenue, some formula, for reaching an agreement with the Soviet rulers that would place this new form o power under effective restraints—that would guarantee no nation would use it in war. I do not have to recount here the proposals w made, the steps taken in the United Nations, striving at least to ope a way to ultimate agreement. I hope and believe that we will continue to make these efforts so long as there is the slightest possibilit of progress. All civilized nations are agreed on the urgency of th problem and have shown their willingness to agree on effectiv measures of control—all save the Soviet Union and its satellites. Bu they have rejected every reasonable proposal.

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[1] i.e., Alamogordo, N. Mex., where the atomic bomb was successfully tested July 16, 1945, and Eniwetok Atoll in the Marshall Islands of the U. S. Trust Territory of the Pacific Islands, where, in November 1952, the first hydrogen bomb tests were conducted.

[2] See *A Decade of American Foreign Polic*

Meanwhile, the progress of scientific experiment has outrun ou expectations. Atomic science is in the full tide of development; th unfolding of the innermost secrets of matter is uninterrupted an irresistible. Since Alamogordo we have developed atomic weapon with many times the explosive force of the early models, and we hav produced them in substantial quantities. And recently in the thermonuclear tests at Eniwetok, we have entered another stage in th world-shaking development of atomic energy. From now on ma moves into a new era of destructive power, capable of creating explosions of a new order of magnitude, dwarfing the mushroom clouds o Hiroshima and Nagasaki.[1]

We have no reason to think that the stage we have now reached i the release of atomic energy will be the last. Indeed, the speed o ur scientific and technical progress over the last 7 years shows n signs of abating. We are being hurried forward, in our mastery of th atom, from one discovery to another, toward yet unforeseeable peak f destructive power.

Inevitably, until we can reach international agreement, this is th path we must follow. And we must realize that no advance we mak is unattainable by others; that no advantage in this race can be mor han temporary.

The war of the future would be one in which man could extinguis millions of lives at one blow, demolish the great cities of the world, wipe out the cultural achievements of the past—and destroy th ery structure of a civilization that has been slowly and painfully built up through hundreds of generations.

Such a war is not a possible policy for rational man. We know this, but we dare not assume that others would not yield to the temptation science is now placing in their hands.

With that in mind, there is something I would say to Stalin: You claim belief in Lenin's prophecy that one stage in the development o Communist society would be war between your world and ours.[2] But Lenin was a preatomic man, who viewed society and history with rulers bring themselves to recognize this truth. But when they do, they will find us eager to reach understandings that will protect the world from the danger it faces today.

It is no wonder that some people wish that we had never succeeded in splitting the atom. But atomic power, like any other force of nature, is not evil in itself. Properly used, it is an instrumentality for human betterment. As a source of power, as a tool of scientific inquiry, it has untold possibilities. We are already making good progress in the constructive use of atomic power. We could do much more if we were free to concentrate on its peaceful uses exclusively.

Atomic power will be with us all the days of our lives. We cannot legislate it out of existence. We cannot ignore the dangers or the benefits it offers.

I believe that man can harness the forces of the atom to work for the improvement of the lot of human beings everywhere. That is our goal. As a nation, as a people, we must understand this problem; we must handle this new force wisely through our democratic processes. Above all we must strive, in all earnestness and good faith, to bring it under effective international control. To do this will require much wisdom and patience and firmness. The awe-inspiring responsibility in this field now falls on a new administration and a new Congress. I will give them my support, as I am sure all our citizens will, in whatever constructive steps they may take to make this newest of man's discoveries a source of good and not of ultimate destruction.

We cannot tell when or whether the attitude of the Soviet rulers may change. We do not know how long it may be before they show a willingness to negotiate effective control of atomic energy and honorable settlements of other world problems. We cannot measure how deep-rooted are the Kremlin's illusions about us. We can be sure, however, that the rulers of the Communist world will not change their basic objectives lightly or soon.

The Communist rulers have a sense of time about these things wholly unlike our own. We tend to divide our future into short spans, like the 2-year life of this Congress, or the 4 years of the next Presidential term. They seem to think and plan in terms of generations. And there is, therefore, no easy, short-run way to make them see that their plans cannot prevail.

This means there is ahead of us a long hard test of strength and stamina between the free world and the Communist domain; our politics and our economy, our science and technology against the best they can do; our liberty against their slavery; our voluntary concert of free nations against their forced amalgam of "people's republics"; our strategy against their strategy; our nerve against their nerve.

Above all, this is a test of the will and the steadiness of the people working and of living, much nervous energy, material resources, even human life. Yet if one thing is certain in our future, it is that more sacrifice still lies ahead.

Were we to grow discouraged now, were we to weaken and slack off the whole structure we have built, these past 8 years, would come apart and fall away. Never then, no matter by what stringent means could our free world regain the ground, the time, the sheer momentum lost by such a move. There can and should be changes and improvements in our programs, to meet new situations, serve new needs. But to desert the spirit of our basic policies, to step back from them now, would surely start the free world's slide toward the darkness that the Communists have prophesied—toward the moment for which they watch and wait.

If we value our freedom and our way of life and want to see them safe, we must meet the challenge and accept its implications, stick to our guns, and carry out our policies.

I have set out the basic conditions, as I see them, under which we have been working in the world, and the nature of our basic policies. What, then, of the future? The answer, I believe, is this: As we continue to confound Soviet expectations, as our world grows stronger, more united, more attractive to men on both sides of the iron curtain, then inevitably there will come a time of change within the Communist world. We do not know how that change will come about, whether by deliberate decision in the Kremlin, by coup d'état, by revolution, by defection of satellites, or perhaps by some unforeseen combination of factors such as these.

But if the Communist rulers understand they cannot win by war, and if we frustrate their attempts to win by subversion, it is not too much to expect their world to change its character, moderate its aims, become more realistic and less implacable, and recede from the cold war they began.

Do not be deceived by the strong face, the look of monolithic power that the Communist dictators wear before the outside world. Remember their power has no basis in consent. Remember they are so afraid of the free world's ideas and ways of life, they do not dare to let their people know about them. Think of the massive effort they put forth to try to stop our Campaign of Truth[1] from reaching their people with its message of freedom.

The masters of the Kremlin live in fear their power and position would collapse were their own people to acquire knowledge, information, comprehension about our free society. Their world has many elements of strength, but this one fatal flaw: the weakness represented by their iron curtain and their police state. Surely a social order at once so insecure and so fearful, must ultimately lose its competition with our free society.

Provided just one thing—and this I urge you to consider carefully—provided that the free world retains the confidence and the determination to outmatch the best our adversary can accomplish and to

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the superiority of the free way of life.

That is the test upon all the free nations; upon none more than our own Republic.

Our resources are equal to the task. We have the industry, the skills, the basic economic strength. Above all we have the vigor of free men in a free society. We have our liberties. And, while we keep them, while we retain our democratic faith, the ultimate advantage in this hard competition lies with us, not with the Communists.

But there are some things that could shift the advantage to their side. One of the things that could defeat us is fear—fear of the task we face, fear of adjusting to it, fear that breeds more fear, sapping our faith, corroding our liberties, turning citizen against citizen, ally against ally. Fear could snatch away the very values we are striving to defend.

Already the danger signals have gone up. Already the corrosive process has begun. And every diminution of our tolerance, each new act of enforced conformity, each idle accusation, each demonstration of hysteria, each new restrictive law, is one more sign that we can lose the battle against fear.

The Communists cannot deprive us of our liberties—fear can. The Communists cannot stamp out our faith in human dignity—fear can. Fear is an enemy within ourselves; and, if we do not root it out, it may destroy the very way of life we are so anxious to protect.

To beat back fear, we must hold fast to our heritage as freemen. We must renew our confidence in one another, our tolerance, our sense of being neighbors, fellow citizens. We must take our stand on the Bill of Rights. The inquisition, the star chamber, have no place in a free society.

Our ultimate strength lies not alone in arms, but in the sense of moral values and moral truths that give meaning and vitality to the purposes of free people. These values are our faith, our inspiration, the source of our strength, and our indomitable determination.

We face hard tasks, great dangers. But we are Americans and we have faced hardships and uncertainty before; we have adjusted before to changing circumstances. Our whole history has been a steady training for the work it is now ours to do.

No one can lose heart for the task, none can lose faith in our free ways, who stops to remember where we began, what we have sought, and what accomplished, all together as Americans.

I have lived a long time and seen much happen in our country. And I know, out of my own experience, that we can do what must be done.

When I think back to the country I grew up in—and then look at what our country has become—I am quite certain that having done so much, we can do more.

After all, it has been scarcely 15 years since most Americans rejected out-of-hand the wise counsel that aggressors must be "quarantined."[1]

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[1] See President Roosevelt's address of Oct. 5, 1937; Department of State *Press Releases*, Oct. 9, 1937, pp. 275–279.

The very concept of collective security, the foundation stone of al our actions now, was then strange doctrine, shunned and set aside Talk about adapting; talk about adjusting; talk about responding a a people to the challenge of changed times and circumstances—there has never been a more spectacular example than this great change i America's outlook on the world.

Let all of us pause now, think back, consider carefully the meaning of our national experience. Let us draw comfort from it and faith and confidence in our future as Americans.

The Nation's business is never finished. The basic questions we have been dealing with, these 8 years past, present themselves anew That is the way of our society. Circumstances change and current questions take on different forms, new complications, year by year But underneath the great issues remain the same—prosperity, welfare human rights, effective democracy, and, above all, peace.

Now we turn to the inaugural of our new President. And in the great work he is called upon to do he will have need for the support of a united people, a confident people, with firm faith in one another and in our common cause. I pledge him my support as a citizen of our Republic, and I ask you to give him yours.

To him, to you, to all my fellow citizens, I say, Godspeed!

May God bless our country and our cause.

13. INAUGURAL ADDRESS BY THE PRESIDENT, JANUARY 20, 1953 (Excerpt)[1]

. . . .

Great as are the preoccupations absorbing us at home, concerned as we are with matters that deeply affect our livelihood today and our vision of the future, each of these domestic problems is dwarfed by, and often even created by, this question that involves all human kind.

This trial comes at a moment when man's power to achieve good or to inflict evil surpasses the brightest hopes and the sharpest fears of all ages. We can turn rivers in their courses, level mountains to the plains. Oceans and land and sky are avenues for our colossal commerce. Disease diminishes and life lengthens.

Yet the promise of this life is imperiled by the very genius that has made it possible. Nations amass wealth. Labor sweats to create— and turns out devices to level not only mountains but also cities. Science seems ready to confer upon us, as its final gift, the power to those gifts of the Creator that are man's inalienable rights, and that make all men equal in His sight.

In the light of this equality, we know that the virtues most cherished by free people—love of truth, pride of work, devotion to country—all are treasures equally precious in the lives of the most humble and of the most exalted. The men who mine coal and fire furnaces and balance ledgers and turn lathes and pick cotton and heal the sick and plant corn—all serve as proudly, and as profitably, for America as the statesmen who draft treaties and the legislators who enact laws.

This faith rules our whole way of life. It decrees that we, the people, elect leaders not to rule but to serve. It asserts that we have the right to choice of our own work and to the reward of our own toil. It inspires the initiative that makes our productivity the wonder of the world. And it warns that any man who seeks to deny equality among all his brothers betrays the spirit of the free and invites the mockery of the tyrant.

It is because we, all of us, hold to these principles that the political changes accomplished this day do not imply turbulence, upheaval or disorder. Rather this change expresses a purpose of strengthening our dedication and devotion to the precepts of our founding documents, a conscious renewal of faith in our country and in the watchfulness of a Divine Providence.

The enemies of this faith know no god but force, no devotion but its use. They tutor men in treason. They feed upon the hunger of others. Whatever defies them, they torture, especially the truth.

Here, then, is joined no argument between slightly differing philosophies. This conflict strikes directly at the faith of our fathers and the lives of our sons. No principle or treasure that we hold, from the spiritual knowledge of our free schools and churches to the creative magic of free labor and capital, nothing lies safely beyond the reach of this struggle.

Freedom is pitted against slavery; lightness against the dark.

The faith we hold belongs not to us alone but to the free of all the world. This common bond binds the grower of rice in Burma and the planter of wheat in Iowa, the shepherd in southern Italy and the mountaineer in the Andes. It confers a common dignity upon the French soldier who dies in Indo-China, the British soldier killed in Malaya, the American life given in Korea.

We know, beyond this, that we are linked to all free peoples not merely by a noble idea but by a simple need. No free people can for long cling to any privilege or enjoy any safety in economic solitude. For all our own material might, even we need markets in the world for the surpluses of our farms and our factories. Equally, we need for these same farms and factories vital materials and products of distant lands. This basic law of interdependence, so manifest in the commerce of peace, applies with thousand-fold intensity in the event of war.

So we are persuaded by necessity and by belief that the strength of all free peoples lies in unity; their danger, in discord.

laid upon our country the responsibility of the free world's leadership.

So it is proper that we assure our friends once again that, in the discharge of this responsibility, we Americans know and we observe the difference between world leadership and imperialism; between firmness and truculence; between a thoughtfully calculated goal and spasmodic reaction to the stimulus of emergencies.

We wish our friends the world over to know this above all: we face the threat—not with dread and confusion—but with confidence and conviction.

We feel this moral strength because we know that we are not helpless prisoners of history. We are free men. We shall remain free, never to be proven guilty of the one capital offense against freedom, a lack of stanch faith.

In pleading our just cause before the bar of history and in pressing our labor for world peace, we shall be guided by certain fixed principles.

These principles are:

(1) Abhorring war as a chosen way to balk the purposes of those who threaten us, we hold it to be the first task of statesmanship to develop the strength that will deter the forces of aggression and promote the conditions of peace. For, as it must be the supreme purpose of all free men, so it must be the dedication of their leaders, to save humanity from preying upon itself.

In the light of this principle, we stand ready to engage with any and all others in joint effort to remove the causes of mutual fear and distrust among nations, so as to make possible drastic reduction of armaments. The sole requisites for undertaking such efforts are that—in their purpose—they be aimed logically and honestly toward secure peace for all; and that—in their result—they provide methods by which every participating nation will prove good faith in carrying out its pledge.

(2) Realizing that common sense and common decency alike dictate the futility of appeasement, we shall never try to placate an aggressor by the false and wicked bargain of trading honor for security. Americans, indeed all free men, remember that in the final choice a soldier's pack is not so heavy a burden as a prisoner's chains.

(3) Knowing that only a United States that is strong and immensely productive can help defend freedom in our world, we view our Nation's strength and security as a trust upon which rests the hope of free men everywhere. It is the firm duty of each of our free citizens and of every free citizen everywhere to place the cause of his country before the comfort, the convenience of himself.

(4) Honoring the identity and the special heritage of each nation in the world, we shall never use our strength to try to impress upon another people our own cherished political and economic institutions.

(5) Assessing realistically the needs and capacities of proven friends of freedom, we shall strive to help them to achieve their own security and well-being. Likewise, we shall count upon them to assume, within the limits of their resources, their full and just burdens in the common defense of freedom.

tary strength and the free world's peace, we shall strive to foster everywhere, and to practice ourselves, policies that encourage productivity and profitable trade. For the impoverishment of any single people in the world means danger to the well-being of all other peoples.

(7) Appreciating that economic need, military security and political wisdom combine to suggest regional groupings of free peoples, we hope, within the framework of the United Nations, to help strengthen such special bonds the world over. The nature of these ties must vary with the different problems of different areas.

In the Western Hemisphere, we enthusiastically join with all our neighbors in the work of perfecting a community of fraternal trust and common purpose.

In Europe, we ask that enlightened and inspired leaders of the Western nations strive with renewed vigor to make the unity of their peoples a reality. Only as free Europe unitedly marshals its strength can it effectively safeguard, even with our help, its spiritual and cultural heritage.

(8) Conceiving the defense of freedom, like freedom itself, to be one and indivisible, we hold all continents and peoples in equal regard and honor. We reject any insinuation that one race or another, one people or another, is in any sense inferior or expendable.

(9) Respecting the United Nations as the living sign of all people's hope for peace, we shall strive to make it not merely an eloquent symbol but an effective force. And in our quest for an honorable peace, we shall neither compromise, nor tire, nor ever cease.

By these rules of conduct, we hope to be known to all peoples.

By their observance, an earth of peace may become not a vision but a fact.

This hope—this supreme aspiration—must rule the way we live.

We must be ready to dare all for our country. For history does not long entrust the care of freedom to the weak or the timid. We must acquire proficiency in defense and display stamina in purpose.

We must be willing, individually and as a Nation, to accept whatever sacrifices may be required of us. A people that values its privileges above its principles soon loses both.

These basic precepts are not lofty abstractions, far removed from matters of daily living. They are laws of spiritual strength that generate and define our material strength. Patriotism means equipped forces and a prepared citizenry. Moral stamina means more energy and more productivity, on the farm and in the factory. Love of liberty means the guarding of every resource that makes freedom possible—from the sanctity of our families and the wealth of our soil to the genius of our scientists.

And so each citizen plays an indispensable role. The productivity of our heads, our hands, and our hearts is the source of all the strength we can command, for both the enrichment of our lives and the winning of the peace.

No person, no home, no community can be beyond the reach of this call. We are summoned to act in wisdom and in conscience, to work eigh our every deed with care and with compassion. For this truth must be clear before us: whatever America hopes to bring to pass in the world must first come to pass in the heart of America.

The peace we seek, then, is nothing less than the practice and fulfillment of our whole faith among ourselves and in our dealings with others. This signifies more than the stilling of guns, easing the sorrow of war. More than escape from death, it is a way of life. More than a haven for the weary, it is a hope for the brave.

This is the hope that beckons us onward in this century of trial. This is the work that awaits us all, to be done with bravery, with charity, and with prayer to Almighty God.

14. THE STATE OF THE UNION: Message by the President to the Congress, February 2, 1953 (Excerpts)[1]

. . . .

Our country has come through a painful period of trial and disillusionment since the victory of 1945. We anticipated a world of peace and cooperation. The calculated pressures of aggressive communism have forced us, instead, to live in a world of turmoil.

From this costly experience we have learned one clear lesson. We have learned that the free world cannot indefinitely remain in a posture of paralyzed tension. To do so leaves forever to the aggressor the choice of time and place and means to cause greatest hurt to us at least cost to himself.

This administration has, therefore, begun the definition of a new, positive foreign policy. This policy will be governed by certain basic ideas. They are these:

First. Our foreign policy must be clear, consistent, and confident. This means that it must be the product of genuine, continuous cooperaion between the executive and the legislative branches of this Government. It must be developed and directed in the spirit of true biparisanship. And I assure you, Members of this Congress, I mean that fully, earnestly, and sincerely.

Second. The policy we embrace must be a coherent global policy. The freedom we cherish and defend in Europe and in the Americas is no different from the freedom that is imperiled in Asia.

Third. Our policy, dedicated to making the free world secure, will envision all peaceful methods and devices—except breaking faith with ur friends. We shall never acquiesce in the enslavement of any people in order to purchase fancied gain for ourselves. I shall ask the Congress at a later date to join in an appropriate resolution making clear that this Government recognizes no kind of commitment contained in secret understandings of the past with foreign governments which permit this kind of enslavement.[2]

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[1] H. Doc. No. 75, 83d Cong., 1st sess.; Department of State *Bulletin*, Feb. 9, 1953, pp. 207–211.

single country, even one so powerful as ours, can alone defend the liberty of all nations threatened by Communist aggression from without or subversion within. Mutual security means effective mutual cooperation. For the United States, this means that, as a matter of common sense and national interest, we shall give help to other nations in the measure that they strive earnestly to do their full share of the common task. No wealth of aid could compensate for poverty of spirit. The heart of every free nation must be honestly dedicated to the preserving of its own independence and security.

Fifth. Our policy will be designed to foster the advent of practical unity in Western Europe. The nations of that region have contributed notably to the effort of sustaining the security of the free world. From the jungles of Indochina and Malaya to the northern shores of Europe, they have vastly improved their defensive strength. Where called upon to do so, they have made costly and bitter sacrifices to hold the line of freedom.

But the problem of security demands closer cooperation among the nations of Europe than has been known to date. Only a more closely integrated economic and political system can provide the greatly increased economic strength needed to maintain both necessary military readiness and respectable living standards.

Europe's enlightened leaders have long been aware of these facts. All the devoted work that has gone into the Schuman plan,[1] the European Army,[2] and the Strasbourg Conference [3] has testified to their vision and determination. These achievements are the more remarkable when we realize that each of them has marked a victory—for France and Germany alike—over the divisions that in the past have brought tragedy to these two great nations and to the world.

The needed unity of Western Europe manifestly cannot be manufactured from without; it can only be created from within. But it is right and necessary that we encourage Europe's leaders by informing them of the high value we place upon the earnestness of their efforts toward this goal. Real progress will be conclusive evidence to the American people that our material sacrifices in the cause of collective security are matched by essential political, economic, and military accomplishments in Western Europe.

Sixth. Our foreign policy will recognize the importance of profitable and equitable world trade.

A substantial beginning can and should be made by our friends themselves. Europe, for example, is now marked by checkered areas of labor surplus and labor shortage, of agricultural areas needing machines and industrial areas needing food. Here and elsewhere we can hope that our friends will take the initiative in creating broader markets and more dependable currencies, to allow greater exchange of goods and services among themselves.

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[1] *Infra*, pp. 1039–1097.

[2] *Infra*, pp. 1107–1198.

[3] *Infra*, pp. 1001–1012.

will invite vital help from us. Such help includes:

First. Revising our customs regulations to remove procedural obstacles to profitable trade.[1] I further recommend that the Congress take the Reciprocal Trade Agreements Act [2] under immediate study and extend it by appropriate legislation.[3] This objective must not ignore legitimate safeguarding of domestic industries, agriculture, and labor standards. In all Executive study and recommendations on this problem, labor and management and farmers alike will be earnestly consulted.

Second. Doing whatever our Government can properly do to encourage the flow of private American investment abroad. This involves, as a serious and explicit purpose of our foreign policy, the encouragement of a hospitable climate for such investment in foreign nations.

Third. Availing ourselves of facilities overseas for the economical production of manufactured articles, which are needed for mutual defense and which are not seriously competitive with our own normal peacetime production.

Fourth. Receiving from the rest of the world, in equitable exchange for what we supply, greater amounts of important raw materials which we do not ourselves possess in adequate quantities.

In this general discussion of our foreign policy, I must make special mention of the war in Korea.

This war is, for Americans, the most painful phase of Communist aggression throughout the world. It is clearly a part of the same calculated assault that the aggressor is simultaneously pressing in Indochina and in Malaya, and of the strategic situation that manifestly embraces the island of Formosa and the Chinese Nationalist forces there. The working out of any military solution to the Korean War will inevitably affect all these areas.

The Administration is giving immediate increased attention to the development of additional Republic of Korea forces. The citizens of that country have proved their capacity as fighting men and their eagerness to take a greater share in the defense of their homeland. Organization, equipment, and training will allow them to do so. Increased assistance to Korea for this purpose conforms fully to our global policies.

In June 1950, following the aggressive attack on the Republic of Korea, the United States Seventh Fleet was instructed both to prevent attack upon Formosa and also to insure that Formosa should not be used as a base of operations against the Chinese Communist mainland.[4]

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[1] Effected by the Customs Simplification Act of 1953 (PL 243, 83d Cong. 1st sess.), approved Aug. 8, 1953.

[2] Act of June 12, 1934 (48 Stat. 943), as extended by acts of Mar. 1, 1937 (5 Stat. 24), Apr. 12, 1940 (54 Stat. 107), June 7, 1943 (57 Stat. 125), July 5, 194 (59 Stat. 410), June 26, 1948 (62 Stat. 1053), Sept. 26, 1949 (63 Stat. 697), and June 16, 1951 (*infra*, pp. 2888–2892).

[3] See *infra*, pp. 2893–2898.

[4] See President Truman's statement of June 27, 1950; *infra*, pp. 539–2540.

to serve as a defensive arm of Communist China. Regardless of the situation of 1950, since the date of that order the Chinese Communists have invaded Korea to attack the United Nations forces there. They have consistently rejected the proposals of the United Nations Command for an armistice. They recently joined with Soviet Russia in rejecting the armistice proposal sponsored in the United Nations by the Government of India.[1] This proposal had been accepted by the United States and 53 other nations.

Consequently there is no longer any logic or sense in a condition that required the United States Navy to assume defensive responsibilities on behalf of the Chinese Communists. This permitted those Communists, with greater impunity, to kill our soldiers and those of our United Nations allies in Korea.

I am, therefore, issuing instructions that the Seventh Fleet no longer be employed to shield Communist China. Permit me to make this crystal clear: This order implies no aggressive intent on our part. But we certainly have no obligation to protect a nation fighting us in Korea.

Our labor for peace in Korea and in the world imperatively demands the maintenance by the United States of a strong fighting service ready for any contingency. Our problem is to achieve adequate military strength within the limits of endurable strain upon our economy. To amass military power without regard to our economic capacity would be to defend ourselves against one kind of disaster by inviting another.

. . . .

We have surveyed briefly some problems of our people and a portion of the tasks before us.

The hope of freedom itself depends in real measure, upon our strength, our heart, and our wisdom.

We must be strong in arms. We must be strong in the source of all our armament, our productivity. We all—workers and farmers, foremen and financiers, technicians and builders—all must produce, produce more, and produce yet more.

We must be strong, above all, in the spiritual resources upon which all else depends. We must be devoted with all our heart to the values we defend. We must know that each of these values and virtues applies with equal force at the ends of the earth and in our relations with our neighbor next door. We must know that freedom expresses itself with equal eloquence in the right of workers to strike in the nearby factory, and in the yearnings and sufferings of the peoples of Eastern Europe.

As our heart summons our strength, our wisdom must direct it.

There is, in world affairs, a steady course to be followed between an assertion of strength that is fraudulent and a confession of helplessness that is cowardly.

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[1] See General Assembly Res. 610 (VII), Dec. 3, 1952 (*infra*, pp. 2651–2654).

There is, in our affairs at home, a middle way between untrammeled freedom of the individual and the demands for the welfare o the whole Nation. This way must avoid government by bureaucracy as carefully as it avoids neglect of the helpless.

In every area of political action, free men must think before they can expect to win.

In this spirit must we live and labor: confident of our strength compassionate in our heart, clear in our mind.

In this spirit, let us together turn to the great tasks before us.

15. THE CHANCE FOR PEACE: Address by the President, April 16, 1953[1]

In this spring of 1953 the free world weighs one question above al others: the chance for a just peace for all peoples.

To weigh this chance is to summon instantly to mind another recent moment of great decision. It came with that yet more hopeful spring of 1945, bright with the promise of victory and of freedom. The hope of all just men in that moment too was a just and lasting peace

The 8 years that have passed have seen that hope waver, grow dim and almost die. And the shadow of fear again has darkly lengthened across the world.

Today the hope of free men remains stubborn and brave, but it is sternly disciplined by experience. It shuns not only all crude counsel of despair but also the self-deceit of easy illusion. It weighs the chance for peace with sure, clear knowledge of what happened to the vain hope of 1945.

In that spring of victory the soldiers of the Western Allies met the soldiers of Russia in the center of Europe.[2] They were triumphant comrades in arms. Their peoples shared the joyous prospect of building, in honor of their dead, the only fitting monument—an age of just peace. All these war-weary peoples shared too this concrete decent purpose: to guard vigilantly against the domination ever again of any part of the world by a single, unbridled aggressive power

This common purpose lasted an instant and perished. The nations of the world divided to follow two distinct roads.

The United States and our valued friends, the other free nations chose one road.

The leaders of the Soviet Union chose another.

The way chosen by the United States was plainly marked by a few clear precepts, which govern its conduct in world affairs.

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[1] Before the American Society of Newspaper Editors, Washington; Department of State *Bulletin*, Apr. 27, 1953, pp. 599–603 (also printed as Department of State publication 5042; 1953).

[2] At Torgau on the Elbe River, Apr. 26, 1945.

for all humanity shares the common hunger for peace and fellowship and justice.

Second: No nation's security and well-being can be lastingly achieved in isolation but only in effective cooperation with fellow nations.

Third: Any nation's right to a form of government and an economic system of its own choosing is *inalienable.*

Fourth: Any nation's attempt to dictate to other nations their form of government is *indefensible.*

And fifth: A nation's hope of lasting peace cannot be firmly based upon any race in armaments but rather upon just relations and honest understanding with all other nations.

In the light of these principles the citizens of the United States defined the way they proposed to follow, through the aftermath of war, toward true peace.

This way was faithful to the spirit that inspired the United Nations: to prohibit strife, to relieve tensions, to banish fears. This way was to control and to reduce armaments. This way was to allow all nations to devote their energies and resources to the great and good tasks of healing the war's wounds, of clothing and feeding and housing the needy, of perfecting a just political life, of enjoying the fruits of their own free toil.

The Soviet government held a vastly different vision of the future.

In the world of its design, security was to be found, not in mutual trust and mutual aid but in *force:* huge armies, subversion, rule of neighbor nations. The goal was power superiority at all cost. Security was to be sought by denying it to all others.

The result has been tragic for the world and, for the Soviet Union, it has also been ironic.

The amassing of Soviet power alerted free nations to a new danger of aggression. It compelled them in self-defense to spend unprecedented money and energy for armaments. It forced them to develop weapons of war now capable of inflicting instant and terrible punishment upon any aggressor.

It instilled in the free nations—and let none doubt this—the unshakable conviction that, as long as there persists a threat to freedom, they must, at any cost, remain armed, strong, and ready for any risk of war.

It inspired them—and let none doubt this—to attain a unity of purpose and will beyond the power of propaganda or pressure to break, now or ever.

There remained, however, one thing essentially unchanged and unaffected by Soviet conduct: the readiness of the free nations to welcome sincerely any genuine evidence of peaceful purpose enabling all peoples again to resume their common quest of just peace.

The free nations, most solemnly and repeatedly, have assured the Soviet Union that their firm association has never had any aggressive purpose whatsoever. Soviet leaders, however, have seemed to persuade themselves, or tried to persuade their people, otherwise.

and suffered the very fears it has fostered in the rest of the world.

This has been the way of life forged by 8 years of fear and force.

What can the world, or any nation in it, hope for if no turning is found on this dread road?

The worst to be feared and the best to be expected can be simply stated.

The *worst* is atomic war.

The *best* would be this: a life of perpetual fear and tension; a burden of arms draining the wealth and the labor of all peoples; a wasting of strength that defies the American system or the Soviet system or any system to achieve true abundance and happiness for the peoples of this earth.

Every gun that is made, every warship launched, every rocket fired signifies, in the final sense, a theft from those who hunger and are not fed, those who are cold and are not clothed.

This world in arms is not spending money alone.

It is spending the sweat of its laborers, the genius of its scientists, the hopes of its children.

The cost of one modern heavy bomber is this: a modern brick school in more than 30 cities.

It is two electric power plants, each serving a town of 60,000 population.

It is two fine, fully equipped hospitals.

It is some 50 miles of concrete highway.

We pay for a single fighter plane with a half million bushels of wheat.

We pay for a single destroyer with new homes that could have housed more than 8,000 people.

This, I repeat, is the best way of life to be found on the road the world has been taking.

This is not a way of life at all, in any true sense. Under the cloud of threatening war, it is humanity hanging from a cross of iron.

These plain and cruel truths define the peril and point the hope that come with this spring of 1953.

This is one of those times in the affairs of nations when the gravest choices must be made, if there is to be a turning toward a just and lasting peace.

It is a moment that calls upon the governments of the world to speak their intentions with simplicity and with honesty.

It calls upon them to answer the question that stirs the hearts of all sane men: *is there no other way the world may live*?

The world knows that an era ended with the death of Joseph Stalin.[1] The extraordinary 30-year span of his rule saw the Soviet Empire expand to reach from the Baltic Sea to the Sea of Japan, finally to dominate 800 million souls.

The Soviet system shaped by Stalin and his predecessors was born of one World War. It survived with stubborn and often amazing courage a second World War. It has lived to threaten a third.

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its links to the past, however strong, cannot bind it completely. Its future is, in great part, its own to make.

This new leadership confronts a free world aroused, as rarely in its history, by the will to stay free.

This free world knows, out of the bitter wisdom of experience, that vigilance and sacrifice are the price of liberty.

It knows that the defense of Western Europe imperatively demands the unity of purpose and action made possible by the North Atlantic Treaty Organization, embracing a European Defense Community.

It knows that Western Germany deserves to be a free and equal partner in this community and that this, for Germany, is the only safe way to full, final unity.

It knows that aggression in Korea and in southeast Asia are threats to the whole free community to be met by united action.

This is the kind of free world which the new Soviet leadership confronts. It is a world that demands and expects the fullest respect of its rights and interests. It is a world that will always accord the same respect to all others.

So the new Soviet leadership now has a precious opportunity to awaken, with the rest of the world, to the point of peril reached and to help turn the tide of history.

Will it do this?

We do not yet know. Recent statements and gestures of Soviet leaders give some evidence that they may recognize this critical moment.

We welcome every honest act of peace.

We care nothing for mere rhetoric.

We care only for sincerity of peaceful purpose attested by deeds. The opportunities for such deeds are many. The performance of a great number of them waits upon no complex protocol but upon the simple will to do them. Even a few such clear and specific acts, such as the Soviet Union's signature upon an Austrian treaty [2] or its release of thousands of prisoners still held from World War II,[3] would be impressive signs of sincere intent. They would carry a power of persuasion not to be matched by any amount of oratory.

This we do know: a world that begins to witness the rebirth of trust among nations *can* find its way to a peace that is neither partial nor punitive.

With all who will work in good faith toward such a peace, we are ready, with renewed resolve, to strive to redeem the near-lost hopes of our day.

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[1] Following Stalin's death, Mar. 5, 1953, G. M. Malenkov succeeded as Chairman of the Council of Ministers, N. S. Khrushchev succeeded as First Secretary of the Communist Party, V. M. Molotov replaced A. Y. Vyshinsky as Foreign Minister, and N. A. Bulganin was appointed Minister of Defense.

[2] See *infra*, pp. 1822–1836.

[3] See *infra*, pp. 269–271 and 2059–2066.

honorable armistice in Korea.[1]

This means the immediate cessation of hostilities and the promp initiation of political discussions leading to the holding of free elections in a united Korea.

It should mean, no less importantly, an end to the direct and indirec attacks upon the security of Indochina and Malaya. For any armistice in Korea that merely released aggressive armies to attack elsewhere would be a fraud.

We seek, throughout Asia as throughout the world, a peace that is true and total.

Out of this can grow a still wider task—the achieving of just politica settlements for the other serious and specific issues between the free world and the Soviet Union.

None of these issues, great or small, is insoluble—given only the will to respect the rights of all nations.

Again we say: the United States is ready to assume its just part.

We have already done all within our power to speed conclusion of a treaty with Austria, which will free that country from economic exploitation and from occupation by foreign troops.

We are ready not only to press forward with the present plans for closer unity of the nations of Western Europe but also, upon that foundation, to strive to foster a broader European community, conducive to the free movement of persons, of trade, and of ideas.

This community would include a free and united Germany, with a government based upon free and secret elections.

This free community and the full independence of the East European nations could mean the end of the present unnatural division of Europe.

As progress in all these areas strengthens world trust, we could proceed concurrently with the next great work—the reduction of the burden of armaments now weighing upon the world. To this end we would welcome and enter into the most solemn agreements. These could properly include:

1. The limitation, by absolute numbers or by an agreed international ratio, of the sizes of the military and security forces of all nations.
2. A commitment by all nations to set an agreed limit upon that proportion of total production of certain strategic materials to be devoted to military purposes.
3. International control of atomic energy to promote its use for peaceful purposes only and to insure the prohibition of atomic weapons.
4. A limitation or prohibition of other categories of weapons of great destructiveness.
5. The enforcement of all these agreed limitations and prohibitions by adequate safeguards, including a practical system of inspection under the United Nations.

The details of such disarmament programs are manifestly critical nd complex. Neither the United States nor any other nation can

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[1] See *infra*, pp. 2637–2658.

formula matters less than the faith—the good faith without
formula can work justly and effectively.

The fruit of success in all these tasks would present the w
the greatest task, and the greatest opportunity, of all. I
the dedication of the energies, the resources, and the imagi
all peaceful nations to a new kind of war. This would be a
total war, not upon any human enemy but upon the brute
poverty and need.

The peace we seek, founded upon decent trust and co
effort among nations, can be fortified, not by weapons of w
wheat and by cotton, by milk and by wool, by meat and by ti
by rice. These are words that translate into every language
These are needs that challenge this world in arms.

This idea of a just and peaceful world is not new or stra
It inspired the people of the United States to initiate the
Recovery Program in 1947.[1] That program was prepared
with like and equal concern, the needs of Eastern and Weste

We are prepared to reaffirm, with the most concrete evid
readiness to help build a world in which all peoples can be p
and prosperous.

This Government is ready to ask its people to join with all
devoting a substantial percentage of the savings achieved by
ment to a fund for world aid and reconstruction. The pu
this great work would be to help other peoples to develo
developed areas of the world, to stimulate profitable and f
trade, to assist all peoples to know the blessings of productive

The monuments to this new kind of war would be these:
schools, hospitals and homes, food and health.

We are ready, in short, to dedicate our strength to serving
rather than the *fears*, of the world.

We are ready, by these and all such actions, to make of th
Nations an institution that can effectively guard the peace
rity of all peoples.

I know of nothing I can add to make plainer the sincere p
the United States.

I know of no course, other than that marked by these a
actions, that can be called the highway of peace.

I know of only one question upon which progress waits.
What Is the Soviet Union Ready To Do?

Whatever the answer be, let it be plainly spoken.

Again we say: the hunger for peace is too great, the hour
too late, for any government to mock men's hopes with m
and promises and gestures.

The test of truth is simple. There can be no persuasio
deeds.

Is the new leadership of the Soviet Union prepared to use it
influence in the Communist world, including control of th

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[1] See *A Decade of American Foreign Policy*, pp. 1268–1327.

arms, to bring not merely an expedient truce in Korea but genuine peace in Asia?

Is it prepared to allow other nations, including those of Eastern Europe, the free choice of their own forms of government?

Is it prepared to act in concert with others upon serious disarmament proposals to be made firmly effective by stringent U. N. control and inspection?

If not, where then is the concrete evidence of the Soviet Union's concern for peace?

The test is clear.

There is, before all peoples, a precious chance to turn the black tide of events. If we failed to strive to seize this chance, the judgment of future ages would be harsh and just.

If we strive but fail and the world remains armed against itself it at least need be divided no longer in its clear knowledge of who has condemned humankind to this fate.

The purpose of the United States, in stating these proposals, is simple and clear.

These proposals spring, without ulterior purpose or political passion from our calm conviction that the hunger for just peace is in the hearts of all peoples—those of Russia and of China no less than of our own country.

They conform to our firm faith that God created men to enjoy not destroy, the fruits of the earth and of their own toil.

They aspire to this: the lifting, from the backs and from the hearts of men, of their burden of arms and of fears, so that they may find before them a golden age of freedom and of peace.

16. THE MORAL INITIATIVE: Address by the Secretary of State November 18, 1953 (Excerpts) [1]

. . . .

The broad lines of United States foreign policy were set for us long ago, by our founders. The opening paragraph of the *Federalis Papers* says that it seems to have been reserved to the American people, by their conduct and example, to show the possibilities of a free society.[2] This opportunity was looked upon as one to use not merely for ourselves but for the benefit of all mankind.

As our people have had that spirit and put it to work, we have gained the satisfaction which comes from creative effort, and we have had an environment of goodwill which has contributed mightily to our security.

America, and North America. Along our West Coast the Russians both held Alaska and infiltrated south as far as the San Francisco area. It was this menace, primarily as it stemmed from Russia, which led to the pronouncement of the Monroe Doctrine.[1]

That doctrine prevailed. But that was not merely because the words were bold. It was in large part because we showed, in actual works, the superiority of freedom over despotism. Under our free political institutions men were producing fruits so good that others, everywhere, wanted like opportunities for themselves. Despotism fell into a disrepute that was born out of contrast with freedom. Gradually despotism receded; and Russian power withdrew to where it belongs, that is, Russia.

Today, when despotism is again threatening throughout the world, we need to draw on our earlier experience.

The great weakness of despotism has been, is, and always will be, its disregard of the rights of man. Despotism can always be routed if free men exploit that weakness. If our example can illumine again the great advantages of a free society, then Soviet communism will lose its deceptive appeal. Furthermore, it will lose its grip upon the enslaved whom it now holds. The tide of despotism will recede during the second half of this century as it receded during the first half of the preceding century.

You will see that I agree with your President Walter Reuther when he said: "The quest for liberty constitutes the eventual victorious challenge to the totalitarian system."

This quest for liberty must be simultaneously pursued on three fronts—the home front, the free-world front, and the captive-world front.

. . . .

On the free-world front the colonial and dependent areas are the field of most dramatic contest. Here the policies of the West and those of Soviet imperialism come into headlong collision.

The Western Powers practiced colonialism, particularly during the 19th century. But it was inevitable that their colonialism would be transitory and self-liquidating, because Western civilization was based on belief in the spiritual nature of man. Western ascendancy was no mere exhibition of brute force. The West had something to offer that others wanted. That was not shackles, but the moral and economic keys to freedom. For example, missionaries and merchants went everywhere, deterred by no martyrdom and no hardship.

The missionaries brought a concept of the spiritual nature of man that was fresh to much of the world, although it had long ago had its beginning in Judea, where East and West met. It was the same concept that had been politically translated into the Magna Carta, the

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[1] See excerpts from President Monroe's message to the Congress, Dec. 2, 1823; *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930).

French Declaration of the Rights of Man, and our own Declaration of Independence. Each of these historic pronouncements had universal import and led logically to the pledge by the United Nations Charter to develop self-government and free political institutions among all non-self-governing peoples.

Human liberty requires an economic, as well as a political, foundation. These, too, the West supplied as economic pioneers gave worldwide currency to the products of Western inventiveness. They developed forgotten and hidden natural resources throughout the world. They built railroads and ports and works of irrigation. They taught the techniques of their own productivity.

These political and economic tasks must be pursued.

We cannot, however, ignore the hazards created by international communism, which plots to pervert nationalism to its own imperialistic ends.

The Soviet leaders, in mapping their strategy for world conquest, hit on nationalism as a device for absorbing the colonial peoples. Stalin, in his classic lecture on the Foundations of Leninism, says that "the road to victory of the revolution in the West lies through the revolutionary alliance with the liberation movement of the colonies and dependent countries." [1]

There is then outlined a two-phased, and two-faced, program. In the first phase the Communist agitators are to whip up the nationalistic aspirations of the people, so that they will rebel violently against the existing order. Then, before newly won independence can become consolidated and vigorous in its own right, Communists will take over the new government and use this power to "amalgamate" the peoples into the Soviet orbit.

That plot is in active operation. Throughout the newly liberated areas and those which seek liberty, Communists operate, usually disguised as local patriots.

. . . . . .

George Washington, in transmitting the proposed Constitution of the United States, said that it would be—

> obviously impractical to secure all rights of independent sovereignty to each [state] and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest.[2]

It is useful for the members of our free-world society to heed George Washington's advice.

There are some who, having just gained political independence, already stand close to losing it in the way the Communists planned. Some non-self-governing peoples, if they won today what the extremis a task of infinite difficulty and delicacy. Zeal needs to be balanced by patience.

Fortunately, despite the obstacles that communism has created, orderly evolution goes on. Let me give three illustrations.

In Indochina the French made a July 3, 1953, Declaration of Independence for the Associated States of Cambodia, Laos, and Viet-Nam.[1] Today these States and the French are taking practical steps to make that independence a reality. The United States rejoices at this development. At the same time we have pointed out to the leaders of the Associated States that they could scarcely hope to preserve their independence in isolation. Economically, politically, militarily, they would, at first, be weak and dangerously exposed. The French Union, like the British Commonwealth, could be a framework within which independence and interdependence can find voluntary expression.

In the Sudan, the United Kingdom and Egypt this year freely gave up their joint rule so as to provide for the self-determination of the people.[2] The Sudanese are this month holding their first election. They are organizing a legislature which will take over many of the duties which the British Governor General had previously carried out. This legislature will rule the country for a period of 3 years. Then a constituent assembly will be elected to determine the future status of the Sudan.

In the Philippines the Communist-inspired Huks have been seeking to destroy civic order.[3] Then, last week, came general elections,[4] under conditions of severe strain. Many feared that the Philippine people and their leaders would not be sufficiently vigilant and dedicated to preserve their freedom. The result is a thrilling demonstration of the capacity of the Philippine nation for self-government. There was an orderly change of power [5] which reflects credit upon all concerned. The political independence consummated in 1946, after 50 years of preparation, stood solid against all internal threats.

Externally there is interdependence expressed by the Mutual Defense Pact,[6] which I was privileged to sign for the United States in 1951.

Perhaps some of you feel that your government is not pushing political liberty as strongly as it should. I can say to you three things:

First, we are pushing for self-government more than appears on the surface.

Secondly, where we exercise restraint it is because of a reasoned conviction that precipitate action would in fact not produce independence but only transition to a captivity far worse than present dependence.

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[1] See *Documents on American Foreign Relations, 1953* (New York, 1954), ...

Thirdly, we are alert to the possibility that the Communist threa might grow into an excuse for delay, when it is not an honest reaso for delay.

There are good and sufficient reasons why the United States desires in the United Nations and elsewhere, to show unity with its Wester allies. But we have not forgotten that we were the first colony t win independence. And we have not given a blank check to an colonial power.

There is no slightest wavering in our conviction that the orderly transition from colonial to self-governing status should be carrie resolutely to a completion.

The third front is the captive world front. During the last 10 years 600 million people peacefully won political independence from the West. But, during the same period, a comparable number were impressed into Communist servitude. They too deserve our thoughts

Most of the captive people are essentially religious and patrioti folk. Very few of them are international Communists. Even i Soviet Russia itself the Communist Party membership is only abou 3 percent of the population. The balance, except for a favored few are the most exploited people in the world today. You, and you fellow workers in the International Confederation of Free Trad Unions, know the situation thoroughly.

These newly enslaved nations are being made to serve the ambition of a small materialistic group which fanatically believes that peac and prosperity require a world of conformity. In that world ther are to be no distinctive characteristics of nation, creed, and individuality; there all men, like domesticated animals, are to perfor slavishly the acts prescribed by a few rulers who exercise the dictatorship of the proletariat.

Such a system, unless it changes, is doomed ultimately to collapse The time of collapse depends largely on whether we produce the riche fruits of freedom; whether that is known behind the Iron Curtain and whether these captive peoples also know that they are no forgotten, that we are not reconciled to their fate, and, above all, tha we are not prepared to seek safety for ourselves by a bargain wit their masters which will confirm their captivity.

It is not necessary, nor is it desirable, that we should try to foment violent revolution. That would mean only the exposure and massacr of those who most cherish freedom. Nonviolent methods can be mor efficacious.

All rulers, however absolute, depend on the productivity of the ruled. You cannot dig coal with bayonets.

Already the Soviet rulers are gravely preoccupied with the mood o the captive workers. The events of last June in Eastern Germany tain, lest restiveness increase everywhere behind that curtain. So, they slammed the door on a European conference, and started diversionary talk about our being buddies with aggressor China.

The Soviet rulers have retreated into a diplomatic defensive. The free world now has the diplomatic and moral initiative.

We shall, I hope, sustain that initiative by being ready to talk about any concrete point of difference—whether it be in Europe or in Asia, or whether it be in relation to armaments. Persistence and strength won us an honorable end to the fighting in Korea. We must never grow weary or become discouraged in the quest for other honorable settlements of concrete issues.

But some cautions should be observed. Our zeal for conference should never lead us to confer where the only probable result would be an apparent moral approval of the Kremlin's rule over the peoples of 15 once independent nations.

Also, we should never, as the price for admission to a conference, abandon basic positions and programs in Asia or Europe.

Let us always remember what President Eisenhower has so often emphasized, that what counts the most are deeds, not words.

The free peoples can promote their own security by deeds which confront the Soviet world with living examples of how a free society works creatively to advance human welfare. That is one reason why this administration attaches such high importance to the growing political, economic, and military unity of Western Europe. The now operating Coal and Steel Community and the prospective European Defense and Political Communities [1] are not merely defensive measures. They are the most valid and effective exhibits of freedom in action. That is bound to be contagious.

In the Pacific area, there are similar opportunities to set examples—in Indochina, Formosa, Japan, and Korea. If India and Pakistan develop economic well-being under their free societies, that will do more than armies to dislodge communism in China.

In all these matters the United States has a great responsibility. We are fortunately located because both to the East and West there are brave and free people between us and the Soviet-dominated world. But it cannot be assumed that that will always be the case. That depends largely on what we do.

Freedom never thrives in a conservatory. Freedom becomes a satisfying and contagious thing only as it is put to ennobling use. Your Government is acting in that faith. At all the critical points, we seek, with other friendly nations, to put freedom into action.

We know that we shall not have an unbroken series of successes. Sometimes the obstacles are greater than foreseen. Sometimes known obstacles make success far from certain. Such possibilities should not stop us from striving, for nothing makes policy more cowardly and more feeble than the premise that no setbacks can be risked.

This is the spirit that today animates the administration's foreign standing and which does not demand a perfection which is humanly unattainable.

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[1] See *infra*, pp. 1039–1097, 1107–1198, and 1201–1232, respectively.

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17. THE STATE OF THE UNION: Message by the President to the Congress, January 7, 1954 (Excerpts)[1]

. . . .

American freedom is threatened so long as the world Communist conspiracy exists in its present scope, power, and hostility. More closely than ever before, American freedom is interlocked with the freedom of other people. In the unity of the free world lies our best chance to reduce the Communist threat without war. In the task of maintaining this unity and strengthening all its parts, the greatest responsibility falls naturally on those who, like ourselves, retain the most freedom and strength.

We shall, therefore, continue to advance the cause of freedom on foreign fronts.

In the Far East we retain our vital interest in Korea. We have negotiated with the Republic of Korea a mutual security pact, which develops our security system for the Pacific and which I shall promptly submit to the Senate for its consent to ratification.[2] We are prepared to meet any renewal of armed aggression in Korea. We shall maintain indefinitely our bases in Okinawa.[3] I shall ask the Congress to authorize continued material assistance to hasten the successful conclusion of the struggle in Indochina.[4] This assistance will also bring closer the day when the Associated States may enjoy the independence already assured by France. We shall also continue military and economic aid to the Nationalist Government of China.

In south Asia, profound changes are taking place in free nations which are demonstrating their ability to progress through democratic methods. They provide an inspiring contrast to the dictatorial methods and backward course of events in Communist China. In these continuing efforts, the free peoples of south Asia can be assured of the support of the United States.

In the Middle East, where tensions and serious problems exist, we will show sympathetic and impartial friendship.

In Western Europe our policy rests firmly on the North Atlantic Treaty. It will remain so based as far ahead as we can see. Within its organization, the building of a united European community including France and Germany, is vital to a free and self-reliant

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[1] H. Doc. No. 251, 83d Cong., 2d sess.; Department of State *Bulletin*, Jan. 18 1954, pp. 75–79.

[2] See *infra*, pp. 897–912.

[3] See statement of Dec. 24, 1953, by the Secretary of State, *infra*, p. 2430.

[4] See Section 121 of the Mutual Security Act of 1954, *infra*, p. 3111.

Europe. This will be promoted by the European Defense Community which offers assurance of European security. With the coming of unity to Western Europe, the assistance this Nation can render for the security of Europe and the free world will be multiplied in effectiveness.

In the Western Hemisphere we shall continue to develop harmonious and mutually beneficial cooperation with our neighbors. Indeed, solid friendship with all our American neighbors is a cornerstone of our entire policy.

In the world as a whole, the United Nations, admittedly still in a state of evolution, means much to the United States. It has given uniquely valuable services in many places where violence threatened. It is the only real world forum where we have the opportunity for international presentation and rebuttal. It is a place where the nations of the world can, if they have the will, take collective action for peace and justice. It is a place where the guilt can be squarely assigned to those who fail to take all necessary steps to keep the peace. The United Nations deserves our continued firm support.

In the practical application of our foreign policy, we enter the field of foreign assistance and trade.

Military assistance must be continued. Technical assistance must be maintained. Economic assistance can be reduced. However, our economic programs in Korea and in a few other critical places of the world are especially important, and I shall ask Congress to continue them in the next fiscal year.[1]

The forthcoming budget message will propose maintenance of the Presidential power of transferability of all assistance funds and will ask authority to merge these funds with the regular defense funds.[2] It will also propose that the Secretary of Defense have primary responsibility for the administration of foreign military assistance in accordance with the policy guidance of the Secretary of State.[3]

The fact that we can now reduce our foreign economic assistance in many areas is gratifying evidence that its objectives are being achieved. By continuing to surpass her prewar levels of economic activity, Western Europe gains self-reliance. Thus our relationship enters a new phase which can bring results beneficial to our taxpayers and our allies alike, if still another step is taken.

This step is the creation of a healthier and freer system of trade and payments within the free world—a system in which our allies can earn their own way and our own economy can continue to flourish. The free world can no longer afford the kinds of arbitrary restraints on trade that have continued ever since the war. On this problem I shall submit to the Congress detailed recommendations,[4] after our Joint Commission on Foreign Economic Policy has made its report.[5]

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[1] See Section 132 of the Mutual Security Act of 1954, *infra*, pp. 3113–3114.

[2] See Section 501 of the Mutual Security Act of 1954, *infra*, pp. 3128–3129.

[3] See Section 524 of this Act, *infra*, p. 3134.

[4] *Infra*, pp. 2930–2940.

[5] *Infra*, pp. 2898–2930.

draw closer the bonds with our allies, we shall be in an improved position to discuss outstanding issues with the Soviet Union. Indeed we shall be glad to do so whenever there is a reasonable prospect o constructive results. In this spirit the atomic energy proposals o the United States were recently presented to the United Nations General Assembly.[1] A truly constructive Soviet reaction will make possible a new start toward an era of peace, and away from the fata road toward atomic war.

Since our hope is peace, we owe ourselves and the world a candid explanation of the military measures we are taking to make that peace secure.

As we enter this new year, our military power continues to grow This power is for our own defense and to deter aggression. We shal not be aggressors, but we and our allies have and will maintain a massive capability to strike back.

Here are some of the considerations in our defense planning:

First, while determined to use atomic power to serve the usages o peace, we take into full account our great and growing number o nuclear weapons and the most effective means of using them against an aggressor if they are needed to preserve our freedom. Our defense will be stronger if, under appropriate security safeguards, we share with our allies certain knowledge of the tactical use of our nuclear weapons. I urge the Congress to provide the needed authority.[2]

. . . .

The international and defense policies which I have outlined wil enable us to negotiate from a position of strength as we hold our resolute course toward a peaceful world.

. . . .

I want to add one final word about the general purport of these many recommendations.

Our Government's powers are wisely limited by the Constitution, but quite apart from those limitations there are things which no government can do or should try to do.

A government can strive, as ours is striving, to maintain an economic system whose doors are open to enterprise and ambition—those personal qualities on which economic growth largely depends. But enterprise and ambition are qualities which no government can supply. Fortunately no American government need concern itself on this score; our people have these qualities in good measure.

A government can sincerely strive for peace, as ours is striving, and ask its people to make sacrifices for the sake of peace. But no government can place peace in the hearts of foreign rulers. It is our duty then to ourselves and to freedom itself to remain strong in all those ways—spiritual, economic, military—that will give us maximum safety against the possibility of aggressive action by others.

No government can inoculate its people against the fatal material-their first allegiance to the kingdom of the spirit, which is the true source of that freedom we value above all material things.

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[1] See *infra*, pp. 2796–2798.

[2] See *infra*, pp. 2252–2260.

But a government can try, as ours tries, to sense the deepest aspirations of the people, and to express them in political action at home and abroad. So long as action and aspiration humbly and earnestly seek favor in the sight of the Almighty, there is no end to America's forward road; there is no obstacle on it she will not surmount in her march toward a lasting peace in a free and prosperous world.

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18. THE EVOLUTION OF FOREIGN POLICY: Address by the Secretary of State, January 12, 1954 (Excerpts)[1]

It is now nearly a year since the Eisenhower Administration took office. During that year I have often spoken of various parts of our foreign policies. Tonight I should like to present an over-all view of those policies which relate to our security.

First of all, let us recognize that many of the preceding foreign policies were good. Aid to Greece and Turkey had checked the Communist drive to the Mediterranean.[2] The European Recovery Program had helped the peoples of Western Europe to pull out of the post-war morass.[3] The Western powers were steadfast in Berlin and overcame the blockade with their airlift.[4] As a loyal member of the United Nations, we had reacted with force to repel the Communist attack in Korea.[5] When that effort exposed our military weakness, we rebuilt rapidly our military establishment. We also sought a quick buildup of armed strength in Western Europe.

These were the acts of a nation which saw the danger of Soviet Communism; which realized that its own safety was tied up with that of others; which was capable of responding boldly and promptly to emergencies. These are precious values to be acclaimed. Also, we can pay tribute to Congressional bi-partisanship which puts the nation above politics.

But we need to recall that what we did was in the main emergency action, imposed on us by our enemies.

Let me illustrate.

1. We did not send our army into Korea because we judged, in advance, that it was sound military strategy to commit our Army to

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[1] Before the Council on Foreign Relations, New York; Department of State *Bulletin*, Jan. 25, 1954, pp. 107–110.

[2] See *A Decade of American Foreign Policy*, pp. 1252–1267.

[3] See *ibid.*, pp. 1268–1327.

[4] See *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 202–274.

[5] See *infra*, pp. 2536–2541.

fight land battles in Asia. Our decision had been to pull out o Korea.[1] It was Soviet-inspired action that pulled us back.

2. We did not decide in advance that it was wise to grant billion annually as foreign economic aid. We adopted that policy in respons to the Communist efforts to sabotage the free economies of Wester Europe.

3. We did not build up our military establishment at a rate whic involved huge budget deficits, a depreciating currency and a feveris economy, because this seemed, in advance, a good policy. Indeed we decided otherwise until the Soviet military threat was clearl revealed.

We live in a world where emergencies are always possible and ou survival may depend upon our capacity to meet emergencies. Le us pray that we shall always have that capacity. But, having sai that, it is necessary also to say that emergency measures—howeve good for the emergency—do not necessarily make good permanen policies. Emergency measures are costly, they are superficial an they imply that the enemy has the initiative. They cannot b depended on to serve our long-time interests.

This "long time" factor is of critical importance. The Soviet Communists are planning for what they call "an entire historical era" and we should do the same. They seek, through many types o maneuvers, gradually to divide and weaken the free nations by overextending them in efforts which, as Lenin put it, are "beyond thei strength, so that they come to practical bankruptcy". Then, sai Lenin, "our victory is assured".[2] Then, said Stalin, will be "th moment for the decisive blow".[3]

In the face of this strategy, measures cannot be judged adequat merely because they ward off an immediate danger. It is essentia to do this, but it is also essential to do so without exhausting ourselves

When the Eisenhower Administration applied this test, we felt tha some transformations were needed.

It is not sound military strategy permanently to commit U.S. lan forces to Asia to a degree that leaves us no strategic reserves.

It is not sound economics, or good foreign policy, to support permanently other countries; for in the long run, that creates as muc ill will as good will.

Also, it is not sound to become permanently committed to militar expenditures so vast that they lead to "practical bankruptcy".

spectacular change had to be avoided. Otherwise, there m
been a panic among our friends, and miscalculated aggressi
enemies. We can, I believe, make a good report in these r

We need allies and collective security. Our purpose is to m
relations more effective, less costly. This can be done b
more reliance on deterrent power, and less dependence on lo
sive power.

This is accepted practice so far as local communities are c
We keep locks on our doors; but we do not have an arn
in every home. We rely principally on a community securi
so well equipped to punish any who break in and steal tha
would-be aggressors are generally deterred. That is the mo
of getting maximum protection at a bearable cost.

What the Eisenhower Administration seeks is a similar int
security system. We want, for ourselves and the other fre
a maximum deterrent at a bearable cost.

Local defense will always be important. But there is no loc
which alone will contain the mighty land power of the C
world. Local defenses must be reinforced by the further
of massive retaliatory power. A potential aggressor must k
he cannot always prescribe battle conditions that suit him
wise, for example, a potential aggressor, who is glutted w
power, might be tempted to attack in confidence that
would be confined to manpower. He might be tempted to
places where his superiority was decisive.

The way to deter aggression is for the free community to
and able to respond vigorously at places and with means
choosing.

So long as our basic policy concepts were unclear, our milita
could not be selective in building our military power. If
could pick his time and place and method of warfare—a
policy was to remain the traditional one of meeting aggr
direct and local opposition—then we needed to be ready t
the arctic and in the tropics; in Asia, the Near East and i
by sea, by land and by air; with old weapons and with new

The total cost of our security efforts, at home and abroad
$50,000,000,000 per annum, and involved, for 1953, a
budgetary deficit of $9,000,000,000; and $11,000,000,000
This was on top of taxes comparable to war-time taxes
dollar was depreciating in effective value. Our allies were
weighed down. This could not be continued for long with
budgetary, economic and social consequences.

But before military planning could be changed, the Preside
advisers, as represented by the National Security Counc
take some basic policy decisions. This has been done.

decision was to depend primarily upon a great capacity to retaliate, instantly, by means and at places of our choosing. Now the Department of Defense and the Joint Chiefs of Staff can shape our military establishment to fit what is our policy, instead of having to try to be ready to meet the enemy's many choices. That permits of a selection of military means instead of a multiplication of means. As a result, it is now possible to get, and share, more basic security at less cost.

. . . .

In the ways I outlined we gather strength for the long-term defense of freedom.

We do not, of course, claim to have found some magic formula that ensures against all forms of Communist successes. It is normal that at some times and at some places there may be setbacks to the cause of freedom. What we do expect to ensure is that any setbacks will have only temporary and local significance because they will leave unimpaired those free world assets which in the long run will prevail.

If we can deter such aggression as would mean general war, and that is our confident resolve, then we can let time and fundamentals work for us. We do not need self-imposed policies which sap our strength.

The fundamental, on our side, is the richness—spiritual, intellectual and material—that freedom can produce and the irresistible attraction it then sets up. That is why we do not plan ourselves to shackle freedom to preserve freedom. We intend that our conduct and example shall continue, as in the past, to show all men how good can be the fruits of freedom.

If we rely on freedom, then it follows that we must abstain from diplomatic moves which would seem to endorse captivity. That would, in effect, be a conspiracy against freedom. I can assure you that we shall never seek illusory security for ourselves by such a "deal".

We do negotiate about specific matters but only to advance the cause of human welfare.

President Eisenhower electrified the world with his proposal to lift a great weight of fear by turning atomic energy from a means of death into a source of life.[1] Yesterday, I started procedural talks with the Soviet Government on that topic.[2]

We have persisted, with our Allies, in seeking the unification of Germany and the liberation of Austria. Now the Soviet rulers have agreed to discuss these questions.[3] We expect to meet them soon in Berlin.[4] I hope they will come with a sincerity which will equal our own.

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[1] *Infra*, pp. 2798–2805.

[2] See Department of State *Bulletin*, Oct. 4, 1954, p. 478.

[3] See *infra*, pp. 1849–1850.

[4] See *infra*, pp. 1850–1871.

We have sought a conference to unify Korea and relieve it of foreign troops. So far, our persistence is unrewarded; but we have not given up.[1]

These efforts at negotiation are normal initiatives that breathe the spirit of freedom. They involve no plan for a partnership division of world power with those who suppress freedom.

If we persist in the courses I outline we shall confront dictatorship with a task that is, in the long run, beyond its strength. For unless it changes, it must suppress the human desires that freedom satisfies—as we shall be demonstrating.

If the dictators persist in their present course then it is they who will be limited to superficial successes, while their foundation crumbles under the tread of their iron boots.

Human beings, for the most part, want simple things.

They want to worship God in accordance with the dictates of their conscience. But that is not easily granted by those who promote an atheistic creed.

They want to think in accordance with the dictates of their reason. But that is not easily granted by those who represent an authoritarian system.

They want to exchange views with others and to persuade and to be persuaded by what appeals to their reason and their conscience. But that is not easily granted by those who believe in a society of conformity.

They want to live in their homes without fear. But that is not easily granted by those who believe in a police state system.

They want to be able to work productively and creatively and to enjoy the fruits of their labor. But that is not easily granted by those who look upon human beings as a means to create a powerhouse to dominate the world.

We can be sure that there is going on, even within Russia, a silent test of strength between the powerful rulers and the multitudes of human beings. Each individual no doubt seems by himself to be helpless in this struggle. But their aspirations in the aggregate make up a mighty force.

There are signs that the rulers are bending to some of the human desires of their people. There are promises of more food, more household goods, more economic freedom.

That does not prove that the Soviet rulers have themselves been converted. It is rather that they may be dimly perceiving a basic fact, that is that there are limits to the power of any rulers indefinitely to suppress the human spirit.

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[1] [illegible]

sustain us. For even if the path ahead be long and hard, it need not be a warlike path; and we can know that at the end may be found the blessedness of peace.

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19. BERLIN FOREIGN MINISTERS MEETING (JANUARY 25–FEBRUARY 18, 1954): Report by the Secretary of State, February 24, 1954 (Excerpts) [1]

Last Friday evening [February 19] I returned to Washington after four weeks of daily discussion at Berlin with the Foreign Ministers of France, Great Britain and the Soviet Union—Mr. Bidault, Mr Eden, Mr. Molotov.[2] Also, on the way back, I met with Chancellor Adenauer of Germany.[3]

I find on my return that there is some confusion as to what really happened. That is not surprising. It is difficult to grasp quickly the results of four weeks of debate on many different matters. Indeed the full results cannot be clearly seen for many months. I can however, say that this meeting had two results which will profoundly influence the future.

First, as far as Europe was concerned, we brought Mr. Molotov to show Russia's hand. It was seen as a hand that held fast to everything it had, including East Germany and East Austria, and also it sought to grab some more.

Secondly, as far as Korea and Indochina were concerned, we brought Mr. Molotov to accept a Resolution which spelled out the United States position that Red China might in these two instances be dealt with, but not as a government recognized by us.[4]

. . . .

The Soviet position was not at first openly revealed. It was masked behind ambiguous words and phrases. But as the Conference unfolded and as Mr. Molotov was compelled to respond to our probing of his words, the Soviet purpose became apparent.

The seating and speaking order at the Conference table were such that it always fell to me to speak first after Mr. Molotov. Then after me came Mr. Bidault of France, and then Mr. Eden of Britain They carried with conspicuous ability their share of the task. Between the three of us, we exposed what lay behind Mr. Molotov's clever words. For the first time in five years the people of West Europe, America, and indeed all who could and would observe, sized by guess or by theory.

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[1] Delivered by radio and television from Washington; Department of State *Bulletin*, Mar. 8, 1954, pp. 343–347.

[2] *Infra*, pp. 1850–1871; for full documentation on the meeting, see *Foreign Ministers Meeting: Berlin Discussions, January 25–February 18, 1954* (Department of State publication 5399; 1954).

[3] No communiqué was issued in connection with this meeting.

It amounted to this:

To hold on to East Germany;

To permit its unification with West Germany only under conditions such that the Communists would control the election machinery through all Germany;

To maintain Soviet troops indefinitely in Austria;

To offer Western Europe, as the price of Soviet "good will", a Soviet-controlled Europe which would exclude the United States except in the nominal role of an "observer" along with Communist China.

. . . .

I have referred to the efforts of the Western Ministers to require Mr. Molotov to expose Soviet policies in their reality. That effort gave drama to every meeting of the four. There was another aspect which carried, too, its drama. That was the effort of Mr. Molotov to divide the three Western powers.

Mr. Molotov occasionally complained that he was at a disadvantage because we were three to his one. But from his standpoint, that was an advantage. It is much easier to divide three than it is to divide one. If Mr. Molotov had achieved that division, he would have won the Conference. In that respect, he failed totally. The Conference ended with a greater degree of unity between the three Western powers than had existed when the Conference began.

. . . .

The alien peoples under Soviet rule can know that nothing that happened in Berlin has made less likely the unification of Germany, or the liberation of Austria and indeed the restoration of freedom to Poland, Czechoslovakia and the other satellite countries. At Berlin I did not conceal my views in this respect. In my closing remarks to the three other Foreign Ministers I said, "We do not believe that the peoples of Germany or Austria or for that matter of other neighboring nations need to bury their hopes." [1]

I am confident that in saying this I expressed the abiding sentiments of the American people.

The Governments of France and Britain rejected, without hesitation, the Soviet proffer of European "peace" at a price which would have meant Western European disunity in the face of the huge consolidation of Soviet power.

Thus it came about that, in relation to Europe, much has been revealed. The Soviet has offered its alternatives to Western planning planned. Certainly, that is the United States' conviction.

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[1] Statement of Feb. 18, 1954; *Foreign Ministers Meeting: Berlin Discussions, January 25–February 18, 1954* (Department of State publication 5399; 1954), p. 210.

I had two private talks with Mr. Molotov about advancing President Eisenhower's atomic energy plan.[1] We have agreed on the next procedural step which will involve communication between Moscow and Washington through the Soviet Embassy in Washington. I should note in this connection that the Berlin Conference adopted a resolution [2] to exchange views on limitation of armament as contemplated by a United Nations Resolution of last November.[3] It was, however made clear that these talks would not replace, or cut across, the independent development of President Eisenhower's atomic energy plan.

We dealt also with the matter of peace in Korea and Indochina.

We wanted a political conference on Korea because we felt it a duty to ourselves, the Korean people and the United Nations to seek to replace a Korea divided by an armistice with a Korea united in peace The Korean Armistice recommended such a conference with the Communists.[4] But for over six months, the Communists had blocked agreement upon either the time or place or composition of that conference. As far back as last September, in agreement with President Rhee of Korea, the United States had proposed that the conference be held at Geneva.[5] That proposal had been rejected. We proposed also in agreement with President Rhee, that the conference should be composed of Communist China, Soviet Russia, North Korea, and, on the United Nations side, the Republic of Korea, and the 16 United Nations members which had fought in Korea.[6] This proposal had been rejected. The Communists insisted that a group of Asian "neutrals" should be present and that Soviet Russia would be among these "neutrals" and so not bound by conference decisions.

We were able at Berlin to settle all these matters. It was agreed that a conference will be held at Geneva, as we had long ago proposed, and that the composition will be precisely that which the United States the Republic of Korea, and the United Nations General Assembly had sought. There will be no Asian "neutrals" there.

Some profess to fear that the holding of this conference will imply U.S. recognition of Communist China. That fear is without basis Those throughout the world who suggest that the prospective Geneva conference implies recognition are giving the Communists a success which they could not win at Berlin. The resolution adopted at Berlin explicitly provides—I shall read the text—"It is understood conference shall be deemed to imply diplomatic recognition in any case where it has not already been accorded." [1]

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[1] Department of State *Bulletin*, Oct. 4, 1954, pp. 479–480.

[2] Res. No. 84, Feb. 18, 1954; *Foreign Ministers Meeting . . .* , p. 221.

[3] Res. 715 (VIII), Nov. 28, 1953; General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630), pp. 3–4.

[4] See article IV of the armistice agreement; *infra*, p. 742.

[5] See communication of Sept. 23, 1953; Department of State *Bulletin*, Oct. 12 1953, p. 486.

[6] See proposal of Dec. 8, 1953; *infra*, pp. 2678–2680.

I had told Mr. Molotov flatly that I would not agree to meet with the Chinese Communists unless it was expressly agreed and put in writing that no United States recognition would be involved.

. . . .

My basic position with reference to Communist China was made clear beyond the possibility of misunderstanding.

In my opening statement (January 26), I said, "I should like to state here, plainly and unequivocally, what the Soviet Foreign Minister already knows—the United States will not agree to join in a five-power conference with the Chinese Communist aggressors for the purpose of dealing generally with the peace of the world. The United States refuses not because, as is suggested, it denies that the regime exists or that it has power. We in the United States well know that it exists and has power because its aggressive armies joined with the North Korean aggressors to kill and wound 150,000 Americans . . . We do not refuse to deal with it where occasion requires . . . It is, however, one thing to recognize evil as a fact. It is another thing to take evil to one's breast and call it good." [2]

That explains our non-recognition of the Communist regime and also our opposition to its admission to the United Nations.

I adhered to that position without compromise. It is that position which is reflected in the final Berlin Conference Resolution. Under that Resolution the Communist regime will not come to Geneva to be honored by us, but rather to account before the bar of world opinion

The Berlin Resolution also touches on Indochina. It says that "the establishment, by peaceful means, of a united and independent Korea would be an important factor . . . in restoring peace in other parts of Asia," and it concludes that "the problem of restoring peace in Indochina will also be discussed at the conference."

This portion of the Resolution was primarily and properly the responsibility of France. The United States has a very vital interest in developments in this area and we are helping the French Union forces to defeat Communist aggression by helping them out with grants of money and equipment.[3]

But the French and peoples of the Associated States of Indochina are doing the actual fighting in a war now in its eighth year. They have our confidence and our support. We can give counsel, and that counsel is welcomed and taken into account. But just as the United States had a special position in relation to the Korean armistice, so France has a special position in Indochina.

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[1] *Infra*, pp. 2372–2373.
[2] *Foreign Ministers Meeting* . . . pp. 27–28.
[3] *Infra*, pp. 2365–2372.

I recognize, of course, that the Soviet Union would not have accepted 100 percent our terms for the Korean Political Conference, unless it expected to benefit thereby. But so do we.

I can think of some Soviet benefits that we would not like and should prevent. But I do not wholly exclude the idea that the Soviet Union might in fact want peace in Asia.

We can hope so, and we shall see. In the meantime, we shall keep on our guard.

There is, however, no reason why we should refuse to seek peacefully the results we want merely because of fear that we will be outmaneuvered at the conference table. No informed observers believe that we were outmaneuvered at Berlin.

We need not, out of fright, lay down the tools of diplomacy and the possibilities which they provide. Our cause is not so poor, and our capacity not so low, that our Nation must seek security by sulking in ts tent.

Berlin gave the free nations up-to-date, firsthand, post-Stalin knowledge of Soviet intentions. That knowledge was not reassuring. It shows that the free nations must remain steadfast in their unity and steadfast in their determination to build military strength and human welfare to the point where aggression is deterred and the ideals of freedom are dynamic in the world.

We must continue to hold fast to the conviction that the peoples and nations who are today not the masters of their own destinies shall ecome their own masters.

If we do all of this, not belligerently but wisely and soberly; if we emain ever-watchful for a sign from the Soviet rulers that they ealize that freedom is not something to be frightened by but something to be accepted, then we may indeed, as these eventful coming months unfold, advance the hopes for peace of the world, hopes so eloquently voiced by President Eisenhower last April [1] and again last December. [2]

In all of this we Americans have a special responsibility.

Over recent years the fearful problem of dealing with Soviet expansion has brought many to a truly disturbing emotional and moral state In a sense brains have been washed to such an extent that many are tempted to trade principles of justice for some sense of momentary respite.

Our ultimate reliance is not dollars, is not guided missiles, is not weapons of mass destruction. The ultimate weapon is moral prin give to mankind the too novel example of a people always guided by an exalted justice. . . . The experiment, at least, is recommended."[1]

That recommendation has, in fact, guided us throughout most of our national life, and we have become the great Nation which Washington foresaw. This is not the moment to forsake that guiding principle. It is not a moment to flee from opportunities because we fear that we shall be inadequate. If what we stand for is right, why should we fear?

There are some in Europe who would have us forsake our friends in Asia in the hope of gain for Europe. There are some in Asia who would have us forsake our friends in Europe in hope of gain for Asia. We dare not be critical of them, for they are subject to strains which we are spared by our fortunate material and geographical position. Indeed, there are some Americans who would have us sacrifice our friends both in Asia and in Europe for some fancied benefit to ourselves.

I do not argue that American foreign policy should be conducted for the benefit of others. American foreign policy should be designed to promote American welfare. But we can know that our own welfare would not really be promoted by cynical conduct which defies moral principles. In a world in which no nation can live alone, to treat our friends unjustly is to destroy ourselves. We must stand as a solid rock of principle on which others can depend. That will be the case if we follow George Washington's advice and continue to be a people who are guided by "exalted justice."

20. PEACE WITH FREEDOM AND SECURITY: Statement by the Secretary of State Before the Senate Foreign Relations Committee, March 19, 1954 [2]

I am glad to discuss with you the present state of our foreign policy and its relation to our military programs.

The central goal of our policy is peace with freedom and security. The menace of Soviet bloc despotism, which now holds in its grip one-third of the world's peoples, presents the most serious danger that has ever confronted us. The main aspects of this threat are apparent.

1. The Soviet rulers seem to feel secure only in a world of conformity dominated by them. Partly, no doubt, they are driven by lust for power. But to a considerable extent, I believe, they are driven by fear of freedom. To them freedom is a threat to be stamped

central Eurasian land mass extending from the River Elbe in Germany to the Pacific. From within an orbit of 20,000 miles, it could strike by land at any one of approximately 20 states of Europe, the Middle East, and Asia, and by air it could strike the North American Continent.

3. Nor is the threat only military. It also commands a political apparatus which operates in every country of the world, seeking to capitalize upon all of the discontents and unsatisfied ambitions which inevitably exist in greater or less degree throughout the free world.

4. The threat is virtually unlimited so far as time is concerned. Soviet communism operates not in terms of an individual lifetime so that the threat will end with someone's death. It operates in terms of what Lenin and Stalin called "an entire historical era."

To meet that military threat requires on our side a strategy which is both well-conceived and well-implemented. This military defense must be within the capacity of the free world to sustain it for an indefinite time without such impairment of its economic and social fabric as would expose it to piecemeal seizure from within by the political apparatus of communism.

This calls for thinking and planning which is imaginative; which takes maximum possible advantage of the special resources of the free nations; and which is steadily developed and adapted to changing conditions. The fundamental aim of our national security policies is to deter aggression and thereby avert a new war. The essentials of this problem may be briefly summarized as follows:

1. The free nations can achieve security only by a collective system of defense. No single nation can develop alone adequate power to deter Soviet bloc aggression against its vital interests. By providing joint facilities and by combining their resources, the free nations can achieve a total strength and a flexibility which can surpass that of any potential enemy and can do so at bearable cost.

This collective security concept is the most highly developed in NATO.[1] But it [is] also embodied in the Rio Pact of 1947 [2] and, in more limited form, in various security arrangements in the Far East.[3] The Turkey-Pakistan agreement marks the beginning of applying the collective security concept in the Middle East.[4] The United Nations is moving in the same direction, as shown by its "Uniting for Peace" Resolution.[5]

2. In organizing their collective defense, the free nations should not attempt to match the Soviet bloc man for man and gun for gun. The best way to deter aggression is to make the aggressor know in advance that he will suffer damage outweighing what he can hope to gain. Thus an aggressor must not be able to count upon a sanctuary

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[1] *Infra*, pp. 812–815.
[2] *Infra*, pp. 789–796.
[3] *Infra*, pp. 873–875, 878–880, 885–886, and 897–898.
[4] *Infra*, pp. 1253–1256.
[5] *Infra*, pp. 187–192.

sion.

3. To apply this deterrent principle the free world must r and be prepared to use effective means to make aggression to to be tempting.

It must have the mobility and flexibility to bring collectiv to bear against an enemy on a selective or massive basis as co may require. For this purpose its arsenal must include a wi of air, sea, and land power based on both conventional and weapons. These new weapons can be used not only for purposes but also for tactical purposes. The greatest dete war is the ability of the free world to respond by means best the particular area or circumstances. There should be a ca for massive retaliation without delay. I point out that the po of that capacity does not impose the necessity of using it instance of attack. It is not our intention to turn every l into a general war.

4. The magnitude and duration of the present danger and for flexibility of means to deter that danger make it vital to th States, as never before, that it have firm allies. A firm depends not merely upon documents, although these may b tant. There must also be trust, understanding, and good between the free nations. This implies not merely military ments, but good economic and cultural relations as well. charity on the part of the United States to be concerned economic health of other nations which help to support t strategy I describe. Neither is their good will a matter to can be indifferent. All of this means that foreign policy has as never before, a vital importance for the security of the States.

In the long haul the United States has a profound interest ing that its allies and the uncommitted areas of the free w able to maintain viable economic and political systems. why our foreign economic policy means so much to our own

21. A JUST AND DURABLE PEACE: Address by the Secr State Before the United Nations General Assembly, Se 23, 1954[1]

I come to this opening of the Ninth General Assembly wit sense of the significance of this occasion. This annual gath the representatives of 60 nations represents mankind's most effort to achieve peace with justice. Here is made manifest interdependence of today's world and, also, the vast opportu constructive results which lie in good partnership efforts.

The people of the United States believe wholeheartedl purposes and the principles set out in the charter of the United of peace. It recognizes that peace is not a passive concept but a cal to action. It is not enough to dislike war and to denounce it. War has been hated throughout the ages. Yet war has been recurrent throughout the ages. One reason is that men have never put into the winning of peace efforts comparable to those which they put into the winning of a war.

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[1] Department of State *Bulletin*, Oct. 4, 1954, pp. 471–477.

Mankind will never have lasting peace so long as men reserve their full resources for tasks of war. To preserve peace and to do so without the sacrifice of essential freedoms require constant effort, sustained courage, and at times a willingness to accept grave risks. That is the true spirit of peace.

During the past year many nations have actively worked together on behalf of a just and durable peace. There have been moments when, it seemed, the scales between general war and peace were precariously balanced. That hazardous equation still exists. But at least we see the hazard and strive to shift the balance in favor of peace

The efforts of the past year are not to be appraised merely by whether they in fact produced concrete settlements. The making of intelligent, resolute, and united efforts for just settlements has itself contributed to peace. It shows a dynamic spirit and a vigilance which are a warning to any potential aggressor. In the past, peace has often been lost by default. That, let us resolve, shall not happen again.

I cannot, of course, now touch on all of the manifold activities hich have recently occurred within and without this organization. I shall focus mainly on political efforts with which my own country was associated as an active partner. Let me first speak of the Organization of American States. The inter-American system rests n a long tradition of cooperation for freedom and peace in this hemisphere. Faithfulness to that tradition, and pride in it, have served to spare this hemisphere from such wars as have tragically ravaged Europe and Asia during the last century and more. Last March the Caracas Conference of the American States decided and declared that if international communism gained control of the political institutions of any American State, that would be a danger to the peace and security of them all and call for collective action to remove the threat.[1]

However aggressive communism may be judged elsewhere, we of this hemisphere, with no exception, know that its intrusion here would pen grave conflicts, the like of which we have not known before.

In Guatemala there developed an identifiable threat to the peace nd security of this hemisphere. The American States exchanged iews about this danger and were about to meet to deal with it collectively when the Guatemalan people themselves eliminated the threat.[2]

In this connection, there was occasion for the United Nations to apply the principles of our charter which, while affirming the uni-arrangements before resort to the Security Council (articles 33 and 52). These provisions had been hammered out in the course of debate at San Francisco, when our charter was adopted. The American States at that time urged that their tested relationship should be coordinated with, and not totally replaced by, the United Nations, which they felt might prove undependable because of veto power in the Security Council. So it was decided to make regional association a major feature of the United Nations peace system.

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[1] See Res. No. 43, Mar. 28, 1954, *infra*, pp. 1300–1302.

This year the Organization of American States showed anew that it is ready, able, and willing to maintain regional peace. Thereby, the provisions of the United Nations Charter have been vindicated and the foundation for peace in the American Hemisphere has been solidified.

Last year I said here that "the division of Germany cannot be perpetuated without grave risks."[1] In an effort to eliminate that risk, I went to Berlin last January to confer with the Foreign Ministers of the other three occupying powers. We there joined with Britain and France in presenting a proposal for the unification of Germany through free elections, to be supervised by the United Nations or some comparable impartial body. The Soviet Union countered with proposals which added up to an extension of the Soviet orbit to the Rhine.[2] Accordingly, the dangerous division of Germany still persists. But, I may add, something else persists—that is our resolve, in the spirit of peace, to end the cruel injustice being done to Germany.

Last year I also spoke of an Austrian treaty as being long overdue. I pointed out that as between the occupying powers there was "no substantial item of disagreement." At the Berlin Conference the three Western occupying powers eliminated the last vestige of disagreement by accepting the Soviet version of every disagreed article. It seemed, for a fleeting moment, that the Austrian treaty might be signed. But then the Soviet Union improvised a new condition. It said that it would not free Austria from Soviet occupation until a German peace treaty was concluded.

There cannot be a German peace treaty until Germany is united. So Austria continues to be an indefinitely occupied nation. Nevertheless, here again, we do not accept as final the denial of justice to unhappy Austria—the first victim of Hitlerite aggression and the object of the 1943 Moscow pledge of freedom and independence.[3] The three Western Powers, constant in the spirit of peace, have again within recent days[4] urged that the Soviet Union sign the Austrian state treaty as a deed which, far more than platitudinous words, will show whether other matters can fruitfully be discussed.

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[1] Address of Sept. 17, 1953; *infra*, pp. 350–359.

[2] For materials on the Berlin Conference, see *Foreign Ministers Meeting: Berlin Discussions, January 25–February 18, 1954* (Department of State publication 5399; 1954) and *infra*, pp. 1850–1871.

[3] Declaration of Nov. 1, 1943; *A Decade of American Foreign Policy*, p. 11.

[4] See Western Powers' note of Sept. 10, 1954; *infra*, pp. 1875–1877.

because of the recent setback to the consummation of the European Defense Community.[1] That concept came from recognition that the best guarantee of permanent peace in Europe was an organic unity which would include France and Germany. Also, if this unity merged the military forces of these two and other European countries, that would assure their nonaggressive character. Such forces would clearly be unavailable except as the whole community recognized the need for defensive action.

The votes of Communist deputies more than accounted for the parliamentary majority which in one country shelved the Edc. Thus, they acted to perpetuate European divisions which have recurrently bred wars. However, the free nations concerned do not accept with resignation the perpetuation of what, historically, has been the world's worst fire hazard. They are alert to the peril and are working actively to surmount it.

Last year when I spoke here about Korea,[2] I was able to report an armistice. That, I said, was not because the Communist aggressors loved peace, but because they had come up against an effective military barrier. I went on to say, "The Korean political conference, if the Communists come to it, will afford a better test." It took 7 months of arduous negotiation to bring about the political conference.[3] When it occurred at Geneva,[4] the United Nations side proposed the unification of Korea on the basis of free all-Korean elections to be supervised by the United Nations. This proposal was rejected by the Communist side. They insisted that the United Nations must itself be treated as an instrument of aggression and be debarred from any further activity in Korea.

This counterproposal, insulting to the United Nations, was unanimously rejected by those who proudly hailed the Korean action of the United Nations as the first example in all history of an international organization which had in fact acted effectively against armed aggression.

The United States does not believe that the unification of Korea must await another war. We have exerted all the influence we possess in favor of a peaceful solution of the Korean problem, and we have not lost faith that this solution is possible.

At the Geneva Conference the belligerents in Indochina also dealt with the problem of peace.[5] An 8-year conflict of mounting intensity was brought to a close.[6] We can all rejoice that there has been an end to the killing. On the other hand, we cannot shut our eyes to the fact that several hundred thousand in North Viet-Nam have at their desire been transferred to non-Communist areas, and that there still remain millions unwillingly subject to an alien despotism. In the final result is still obscure.

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[1] See *infra*, pp. 1200–1201.

[2] See *infra*, pp. 350–359.

[3] See *infra*, pp. 2673–2686.

[4] For documents on the Korean phase of the Geneva Conference, see *infra*, pp. 2685–2693 and 2695–2701.

[5] For the Indochina phase of the Geneva Conference, see *infra*, pp. 2372–2398

One result, however, has been the driving home to the nations interested in Southeast Asia of the importance of a collective organization for defense against further aggression. At Manila this month eight nations met and negotiated and signed a treaty calling for collective defense against aggression.[1]

The Manila Pact[2] constitutes significant action taken under the charter of the United Nations, which recognizes the inherent right of individual and collective self-defense. Those who cry out when others exercise their inherent right of self-defense only expose their own aggressive purposes.

The Manila Conference did much more than extend the area of collective security. It adopted the Pacific Charter.[3] Thereby, the eight nations—Asian and non-Asian—which met at Manila proclaimed in ringing terms the principles of self-determination, self-government, and independence. This charter, and the spirit of fellowship which gave it birth, should serve once and for all to end the myth that there is inherent incompatibility between East and West. The peoples of Asia who are already free, or who seek freedom, need not remain weak, divided, and unsupported in the face of the new imperialism which has already reduced to colonial servitude 800,000,000 people, of what were once 15 truly independent nations.

The past year has been marked by intensive efforts in the field of atomic energy. The United States has sought to share its commanding position in this field in ways that would permit many to join in a great new adventure in human welfare. We hoped to turn atomic energy from being an instrument of death into a source of the enrichment of life.

I vividly recall December 8, 1953, when we here heard President Eisenhower propose that the nations possessing atomic material would cooperate under the auspices of the United Nations to create a world atomic bank into which they would each contribute fissionable material which would then be used for the purpose of productivity rather than destruction.[4] I shared the drama of that moment and sensed the universal applause which then greeted that proposal—applause which echoed around the world.

Because it seems that oftentimes negotiations publicly conducted with the Soviet Union tend to become propaganda contests, President Eisenhower proposed that these new negotiations should be privately conducted. The United States, after consultation with others, then submitted a concrete, detailed proposal to carry out President Eisenhower's great conception.[5] I myself met several times with the Soviet Foreign Minister at Berlin and at Geneva to discuss this matter. We are quite willing that all documents exchanged between the United

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[1] For documents relating to the Manila Conference, see *infra*, pp. 912–945.
[2] See Treaty and Protocol of Sept. 8, 1954; *infra*, pp. 912–916.
[3] *Infra*, pp. 916–917.
[4] *Infra*, pp. 2798–2805.
[5] *Infra*, pp. 2805–2808.

We hoped and believed that, if the Soviet Union would join with he United States, the United Kingdom, and other nations possessing fissionable material and atomic know-how, this act of cooperation might set a pattern which would extend itself elsewhere.

The plan we submitted could not have hurt anyone. It was motivated by the hope of lifting the darkest cloud that hangs over mankind. Its initial dimensions were not sufficient to impair the military capability of the Soviet Union, and there was no apparent reason for its rejection. Above all, it was a practicable, easily workable plan, not dependent on elaborate surveillance.

Nevertheless, the proposal was, in effect, rejected by the Sovie Union last April.[2] Its rejection was not because of any alleged defects in the plan itself. Any such would certainly have been negotiable The Soviet position was, in effect, to say—we will not cooperate to develop peacetime uses of atomic energy unless it is first of all agreed to renounce all those uses of atomic energy which provide the free nations with their strongest defense against aggression.

To date, the Soviet Government has shown no willingness to participate in the implementation of President Eisenhower's plan except on this completely unacceptable condition. Yesterday, when it was known that I would speak on this topic today, the Soviet Union broke a 5 months' silence by delivering a note in Moscow affirming its readiness to talk further.[3] But the note still gave no indication that the Soviet Union had receded from its negative position.

The United States remains ready to negotiate with the Soviet Union. But we shall no longer suspend our efforts to establish an international atomic agency.

The United States is determined that President Eisenhower's proposal shall not languish until it dies. It will be nurtured and developed. We shall press on in close partnership with those nations which, inspired by the ideals of the United Nations Charter, can make this great new force a tool of the humanitarian and of the statesman, and not merely a fearsome addition to the arsenal of war

The United States is proposing an agenda item[4] which will enable us to report on our efforts to explore and develop the vast possibilities for the peaceful uses of atomic energy. These efforts have been and will be directed primarily toward the following ends:

(1) The creation of an international agency, whose initial membership will include nations from all regions of the world. It is hoped that such an agency will start its work as early as next year.

(2) The calling of an international scientific conference to consider this whole vast subject, to meet in the spring of 1955, under the auspices of the United Nations.

(3) The opening early next year, in the United States, of a reactor

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[1] These exchanges were subsequently published in the Department of State *Bulletin*, Oct. 4, 1954, pp. 478–489.

[2] See the Soviet aide-mémoire of Apr. 27, 1954; *ibid.*, pp. 482–484.

[3] *Ibid.*, pp. 486–489.

[4] *Ibid.*, p. 471.

principles of atomic energy with specific regard to its peacetime uses.

(4) The invitation to a substantial number of medical and surgical experts from abroad to participate in the work of our cancer hospitals—in which atomic energy techniques are among the most hopeful approaches to controlling this menace to mankind.

I would like to make perfectly clear that our planning excludes no nation from participation in this great venture. As our proposals take shape, all nations interested in participating, and willing to take on the responsibilities of membership, will be welcome to join with us in the planning and execution of this program.

Even though much is denied us by Soviet negation, nevertheless much remains that can be done. There is denied the immense relaxation of tension which might have occurred had the Soviet Union been willing to begin to cooperate with other nations in relation to what offers so much to fear and so much to hope. Nevertheless, there is much to be accomplished in the way of economic and humanitarian gains. There is no miracle to be wrought overnight. But a program can be made and vitalized to assure that atomic energy can bring to millions a better way of life. To achieve that result is our firm resolve.

Closely allied to this question of peaceful uses of atomic energy is the whole vast and complex question of disarmament. At this Assembly last year, the United States affirmed its ardent desire to reduce the burden of armament. I stated here that the United States would vigorously carry forward the technical studies on armament control and limitation which are vital to any solution of this problem.[1]

Last spring the United States participated in discussions in London with the Soviet Union, the United Kingdom, France, and Canada on a subcommittee of our Disarmament Commission to see whether a fresh approach to the problem could achieve a solution acceptable to the Soviet Union as well as to the free world. The record of these meetings has now been made public.[2]

It shows that the representatives of Canada, France, the United Kingdom, and the United States tried with patience and ingenuity to explore all avenues of agreement with the Soviet Union which would be consistent with the security of all nations. Once more we made clear, as we have again and again in the past, that we seek to eliminate the use of atomic energy for any purposes but those of peace.

These efforts were met by a flat refusal by the Soviet Union even to discuss our proposals on their merits. The crux of the Soviet position was that, before it will engage in real negotiations on disarmament, it insists upon a paper ban by the major powers of the use of nuclear weapons. The great shield, the supreme deterrent, must first be abandoned, leaving the free nations exposed to the Communists' unrivaled manpower. Once that inequality has been assured, then—perhaps—the Soviet Union will negotiate further from its position of assured supremacy. Such procedure would not increase the security of any free nation.

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[1] See Secretary of State Dulles' address of Sept. 17, 1953; *infra*, pp. 350–359.

[2] See Department of State *Bulletin*, Aug. 2, 1954, pp. 171–183.

Reluctantly we must conclude that the Soviet Union has at present no serious desire to negotiate on the disarmament problem. But we shall continue to hope, and to seek, that the Soviet Union may ultimately come to cooperate on a program which could end the wasteful diversion of vast economic wealth and bring it into the constructive service of mankind.

No doubt you will have observed that many of the efforts for peace to which I have referred were conducted outside of the United Nations itself. It should not, however, be forgotten that the organs of the United Nations are themselves steadily carrying forward activities which contribute substantially, even though not spectacularly, to the political, economic, and social conditions which are the foundation for peace. The United States wishes to pay a high tribute to those who perform these indispensable tasks.

If many major political developments have occurred outside the immediate framework of the United Nations, that is due to two causes—one good, one bad:

The charter of the United Nations itself provides that the parties to any dispute which would endanger international peace and security should first of all seek a solution by negotiation, resort to regional agencies, or other peaceful means of their own choice.[1] Only when these methods fail should there be resort to the Security Council. In other words, the Security Council of the United Nations was never intended to be a court of first instance, but only a court of last resort. In this sense, the unprecedented peace efforts of the past year fall within the pattern which our charter itself prescribes.

A second cause exists, and it is disturbing. It is the fact that the membership of the United Nations falls far short of representing the totality of those nations which are peace-loving, which are able and willing to carry out the obligations of the charter, and which are indispensable parties to many critical international problems. Fourteen nations[2] are now debarred from membership only through the use—in reality the abuse—of the so-called veto power. None of these is in the category of Communist China, which has been found by the United Nations to be guilty of aggression.[3] All 14 are fully qualified for membership. Unless ways can be found to bring peace-loving, law-abiding nations into this organization, then inevitably the power and influence of this organization will progressively decline.

We are approaching the tenth anniversary of the founding of the United Nations. All of the member governments and their peoples may properly be thankful for the great accomplishments of the United Nations and for its unique service as a forum for international function better as a guarantor of peace and justice and as a center for harmonizing the actions of nations. That, indeed, was the idea of the founders, who planned for a charter review conference to be called at the next annual session of our Assembly.

The search for peace has had its high hopes and its deep frustrations. But after the frustration, there is always renewed hope. On behalf of the United States I would say in my closing words that we believe that international peace is an attainable goal. That is the premise that underlies all our planning. We propose never to desist, never to admit discouragement, but confidently and steadily so to act that peace becomes for us a sustaining principle of action. In that, we know that we shall not be alone. That is not merely because we have treaties of alliance and bonds of expediency. It is because the spirit of peace is a magnet that draws together many men and many nations and makes of them a fellowship of loyal partners for peace.

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22. THE STATE OF THE UNION: Message by the President to the Congress, January 6, 1955 (Excerpts)[1]

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In the past year, there has been progress justifying hope for the ultimate rule of freedom and justice in the world. Free nations are collectively stronger than at any time in recent years.

Just as nations of this hemisphere, in the historic Caracas[2] and Rio[3] Conferences, have closed ranks against imperialistic communism and strengthened their economic ties, so free nations elsewhere have forged new bonds of unity.

Recent agreements between Turkey and Pakistan[4] have laid a foundation for increased strength in the Middle East. With our understanding support, Egypt and Britain,[5] Yugoslavia and Italy,[6] Britain and Iran[7] have resolved dangerous differences. The security of the Mediterranean has been enhanced by an alliance among Greece, Turkey, and Yugoslavia.[8] Agreements in Western Europe have paved the way for unity to replace past divisions which have undermined Europe's economic and military vitality.[9] The defense of the West appears likely at last to include a free, democratic Germany, participating as an equal in the councils of NATO.[10]

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[1] H. Doc. No. 1, 84th Cong., 1st sess.; Department of State *Bulletin*, Jan. 17, 1955, pp. 79–83.

[2] See *infra*, pp. 1299–1302, 1333–1336.

[3] See *infra*, pp. 1337–1340.

[4] *Infra*, pp. 1253–1256.

[5] See *infra*, pp. 2223–2226 and 2304.

[6] See *infra*, pp. 423–425.

[7] See *infra*, pp. 2261–2275.

[8] *Infra*, pp. 1235–1239.

[9] *Infra*, pp. 972–989.

[10] See *infra*, pp. 1474–1496 and 1637–1639.

treaties with Australia, New Zealand,[2] the Philippines,[3] Korea [4] an Japan [5] and our prospective treaty with the Republic of China.[6] Thes pacts stand as solemn warning that future military aggression an subversion against the free nations of Asia will meet united response The Pacific Charter,[7] also adopted at Manila, is a milestone in th development of human freedom and self-government in the Pacifi area.

Under the auspices of the United Nations, there is promise of progress in our country's plan for the peaceful use of atomic energy.[8]

Finally, today the world is at peace. It is, to be sure, an insecur peace. Yet all humanity finds hope in the simple fact that for a appreciable time there has been no active battlefield on earth. Thi same fact inspires us to work all the more effectively with other nation for the well-being, the freedom, the dignity, of every human on earth In the ultimate achievement of this great purpose lies the only sur promise of security and permanent peace for any nation, includin our own.

These developments are heartening. But sobering problems remain

The massive military machines and ambitions of the Soviet-Communist bloc still create uneasiness in the world. All of us are awar of the continuing reliance of the Soviet Communists on military force of the power of their weapons, of their present resistance to realisti armament limitation, and of their continuing effort to dominate o intimidate free nations on their periphery. Their steadily growin power includes an increasing strength in nuclear weapons. Thi power, combined with the proclaimed intentions of the Communis leaders to communize the world, is the threat confronting us today.

To protect our nations and our peoples from the catastrophe of nuclear holocaust, free nations must maintain countervailing militar power to persuade the Communists of the futility of seeking to advanc their ends through aggression. If Communist rulers understand tha America's response to aggression will be swift and decisive—that neve shall we buy peace at the expense of honor or faith—they will b powerfully deterred from launching a military venture engulfing thei own peoples and many others in disaster. Now this, of course, is form of world stalemate. But in this stalemate each of us—ever American—may and must exercise his high duty to strive in ever honorable way for enduring peace.

The military threat is but one menace to our freedom and security We must not only deter aggression; we must also frustrate the effort o Communists to gain their goals by subversion. To this end, fre nations must maintain and reinforce their cohesion, their interna

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[1] *Infra*, pp. 912–916.

[2] *Infra*, pp. 878–880.

[3] *Infra*, pp. 873–875.

[4] *Infra*, pp. 897–898.

[5] *Infra*, pp. 885–886.

[6] *Infra*, pp. 945–947.

[7] *Infra*, p. 916–917.

[8] See *infra*, pp. 2805–2823.

freedom.

In such a world, America's course is clear:

We must strengthen the collective defense under the Unit Charter and gird ourselves with sufficient military strengt ductive capacity to discourage resort to war and protect ou vital interests.

We must continue to support and strengthen the Unite At this moment, by vote of the United Nations General Ass Secretary General is in Communist China on a mission concern to all Americans: seeking the release of our never gotten American aviators and all other United Nations wrongfully detained by the Communist regime.[2]

We must also encourage the efforts being made in the U tions to limit armaments and to harness the atom to peacef

We must expand international trade and investment friendly nations whose own best efforts are still insufficient the strength essential to the security of the free world.

We must be willing to use the processes of negotiation they will advance the cause of just and secure peace.

In respect to all these matters, we must, through a vigorou tion program, keep the peoples of the world truthfully adv actions and purposes. This problem has been attacked with during the past months. I urge that the Congress give attention to the great advantages that can accrue to ou through the successful and expanded operations of this in program.[4]

We must carry forward our educational exchange progra

Now, to advance these many efforts, the Congress must session on appropriations, legislation, and treaties. Tod mention especially our foreign economic and military prog

The recent economic progress in many free nations has bee ing. The productivity of labor and the production of goods ices are increasing in ever-widening areas. There is a grow improve the living standards of all men. This progress is to all our people. It promises us allies who are strong and s it promises a growing world market for the products of our factories, our farms.

But only through steady effort can we continue this progr riers still impede trade and the flow of capital needed to de nation's human and material resources. Wise reduction of riers is a long-term objective of our foreign economic policy of an evolutionary and selective nature, assuring broad bene own and to other peoples.

We must gradually reduce certain tariff obstacles to trad actions should, of course, be accompanied by a similar l

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[1] See General Assembly Res. 906 (IX), adopted Dec. 10, 1954; *infr* 2712.

[2] See *infra*, pp. 2707–2712.

[3] See *infra*, pp. 2805–2824.

[4] See Title IV of PL 133, approved July 7, 1955 (69 Stat. 277–279)

toward economic advantage for all. We must further simplify ou customs procedures. We must facilitate the flow of capital and continue technical assistance, both directly and through the Unite Nations. This must go to less developed countries to strengthen thei independence and raise their living standards. Many another ste must be taken in the free world to release forces of private initiative

. . . .

Our many efforts to build a better world include the maintenance o ur military strength. This is a vast undertaking. Over 4 millio Americans—servicemen and civilians—are on the rolls of the Defens Establishment. During the past 2 years, by attacking duplicatio and overstaffing, by improved procurement and inventory controls, b concentrating on the essentials, many billions of dollars have bee saved on these defense activities. I should like to mention certai fundamentals underlying this vast program.

First, I repeat that a realistic limitation of armaments and an enduring, just peace remain our national goals; we maintain powerful military forces because there is no present alternative—they are forces designed for deterrent and defensive purposes, able instantly to strike back with destructive power in response to any attack.

Second, we must stay alert to the fact that undue reliance on one weapon or preparation for only one kind of warfare simply invites an enemy to resort to another. We must, therefore, keep in our Armed Forces balance and flexibility adequate to our needs.

Third, to keep our Armed Forces abreast of the advances of science our military planning must be flexible enough to utilize the new weapons and techniques which flow ever more speedily from our research and development programs. The forthcoming military budget therefore emphasizes modern airpower in the Air Force, Navy, and Marine Corps and increases the emphasis on new weapons, especially those of rapid and destructive striking power.

It seeks continuous modernization of our Army. It accelerates the continental defense program and the buildup of military reserve forces. It continues a vigorous program of stockpiling strategic materials and strengthening our mobilization base. It provides for reduction of forces in certain categories and their expansion in others to fit them to the military realities of our time. These emphases in our defense planning have been made at my personal direction after long and thoughtful—even prayerful—study. In my judgment, they will give our Nation a defense accurately adjusted to the national need.

Fourth, pending a world agreement on armament limitation, we must continue to expand our supplies of nuclear weapons for our land naval, and air forces. We shall continue our encouraging progress at the same time, in the peaceful use of atomic power.

Fifth, in the administration of these costly programs, we demand

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[1] For specific recommendations made in the area of foreign economic policy see *infra*, pp. 2948–2953.

quate protection but also of a defense that can and will be resolutely carried forward from year to year until the threat of aggression has disappeared.

. . . .

At this time the executive and legislative branches are under the management of different political parties. This fact places both parties on trial before the American people.

In less perilous days of the past, division of governmental responsibility among our great parties has at times produced indecision approaching futility. We must not let this happen in our time. We must avoid a paralysis of the will for peace and international security.

Now in the traditionally bipartisan areas—military security and foreign relations—I can report to you that I have already, with the present leaders of this Congress, exchanged assurances of unreserved cooperation. Yet, the security of our country requires more than maintenance of military strength and success in foreign affairs; these vital matters are in turn dependent upon concerted and vigorous action in a number of supporting programs.

I say, therefore, to the 84th Congress:

In all areas basic to the strength of America, there will be—to the extent I can insure them—cooperative, constructive relations between the executive and legislative branches of this Government. Let the general good be our yardstick on every great issue of our time. In that pledge I should include, also, the similar pledge of every head of department or independent agency in this Government.

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23. PRINCIPLES IN FOREIGN POLICY: Address by the Secretary of State, April 11, 1955 [1]

This is a gathering of learned persons. It is an occasion when it may be permissible to talk in terms of general principles. That, I can assure you, is not a purely academic exercise. National action should always reflect principles. Therefore, those who have responsibility for action have also a responsibility to assure that what they do represents something more than immediate political expediency.

However, the guides to conduct are not always clear and simple. Often, indeed, they seem to conflict. Perhaps it will be of interest if I indicate some of the problems which confront those who try to find, in morality and in reason, a compass to direct their course.

Let me mention, as a first problem, that of peace vs. liberty.

Peace is a goal which men have always sought. It is a goal which we particularly think of at this Easter season when we commemorate the resurrection of the Prince of Peace.

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[1] At the Fifth Annual All-Jesuit Alumni Dinner, Washington; Department of State *Bulletin*, Apr. 25, 1955, pp. 671–675.

It is difficult to exaggerate the horrors of war or the longing o humanity for peace. Wars used to be limited in their scope, and they were regulated so as to spare civilians from most of their dire consequences. I myself can think back to the days when private property was immune from seizure in time of war; when interruption of trade was limited to particular ports which were closely blockaded or to contraband of war, by which was meant the actual tools of war.

As a youth, I attended the second Hague Peace Conference of 1907 which drew up protocols designed to prevent the use in war of the new scientific developments of that time. It was, for example, sought to forbid the dropping of explosives from balloons.[1]

The First and Second World Wars showed that modern war is "total" war and that it is whole peoples, rather than the military, who suffer its cruel effects. Furthermore, we know that war more than ever involves compulsory enmity, outrages against the human personality, cruelty, vengefulness, and wanton distortions of the truth

Today throughout the world there is a rising demand for protection against the misery, the agony of body and of spirit, the massive destruction of life and of property which modern war wreaks upon man

There is, however, another aspect of the matter. Peace can be a cover whereby evil men can perpetrate diabolical wrongs.

During recent years the Communist rulers, through their propaganda, have sought to capitalize on love of peace and horror of war as a means of extending their rule over all the human race. Through such propaganda efforts as the Stockholm "Peace" Appeal,[2] they have tried to divert the peoples of the free world from necessary measures o defense and create throughout the free world a popular demand for peace at any price.

Crafty scheming underlies that planning. The Communist leaders know that, if pacifism becomes a prevalent mood among the free peoples, the Communists can easily conquer the world. Then they can confront the free peoples with successive choices between peace and surrender; and if peace is the absolute goal, then surrenders become inevitable.

In this connection we should remember that while modern developments have made war more terrible, they have also made the consequences of retreat and surrender more terrible. Modern war could now destroy much of the life on this planet. But also it may be possible that craven purchase of peace at the expense of principle can result in destroying much of the human spirit on this planet. Peace under certain conditions, could lead to a degradation of the human race and to subjecting human beings to a form of mental decay which obliterates the capacity for moral and intellectual judgment.

We know, in individual cases, the effects of brainwashing. It lead committed acts elsewhere than where they physically were at the time.

There are now techniques which make it possible to alter profoundly the human spirit. Furthermore, this can be done on a mass scale. Certain falsehoods are incessantly pounded, without respite, into the consciousness of those whose minds are terrorized, whose spirits are disheartened, and whose bodies are weakened from malnutrition. In the end the peoples become abnormal.

One cannot but shrink from buying peace at the price of extending over human beings the rule of those who believe that men are in fact nothing more than animated bits of matter and that, to insure harmony and conformity, they should be deprived of the capacity for moral and intellectual judgment. Man, we read in the Holy Scriptures, was made a little lower than the angels.[1] Should man now be made little, if any, higher than domesticated animals which serve the purposes of their human masters?

So men face the great dilemma of when and whether to use force to resist aggression which imposes conditions which violate the moral law and the concept that man has his origin and his destiny in God.

Another dilemma which we face is that which I might call the dilemma of maps vs. people.

Maps have an extraordinary fascination and a profound influence. They provide a temptation to seize as solutions what are not real solutions.

Up until a few years ago, the American people were educated in terms of maps of Mercator's projection.[2] They showed the North American Continent isolated from the rest of the world by the expanse of great oceans. George Washington, in his Farewell Address, spoke of "our detached and distant situation."[3] That concept, originally valid, has dominated the greater part of our national life.

Now we face a world in which air is the means of communication. But air cannot be portrayed by maps alone. It is an invisible envelope that enfolds the earth without a break. So maps now need the supplement of an intelligent imagination. Some help can be got from polar maps.[4] They help to teach that under modern conditions of communication areas which used to seem remote are in fact near.

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[1] Psalms 8:5.

[2] *Webster's Geographical Dictionary* (Springfield, Mass., 1949) defines (p. xxvi) Mercator's projection as being a map on which "the earth as a whole is printed as a rectangle on which parallels and meridians appear as straight lines intersecting at right angles. All parallels of latitude have the same length as the central one, the equator (whereas actually they get progressively smaller toward the poles), and all meridians are parallel throughout their entire length (whereas actually they converge to a point at each po e)."

Under present circumstances, divisions of land and water, of deser and mountain range, of river and of plain, have lost much of thei significance. More than ever before, the human family has becom one.

Nevertheless, it is still necessary to draw lines. There are nationa lines, which have a meaning. But even national lines do not hav an unchanging meaning. That is well illustrated by Europe. map of Europe today looks as it did a few weeks ago. But, in fact in Western Europe an immense change is in process. It means tha while nationalities will still exist, there will be cooperation so that th boundary lines will have lost much of their former forbidding significance. A new Western Europe is being born, and maps cannot reflec the ending of age-old rivalries.

In Korea the 38th parallel became famous as a line between the fre and Communist-dominated parts of Korea. But the line did no demarcate the hopes and aspirations of the people. I recall bein in Korea in June 1950[1] and addressing at Seoul a religious gatherin of thousands of refugees. They had fled from the north and crosse the parallel to the south in the hope of finding the freedom of religio which they cherished.

In Viet-Nam a line was drawn at the 17th parallel. But hundred of thousands of refugees have crossed it, fleeing to the south. Agai the driving force was a longing for religious freedom.

And there is this to be remembered: For each person who succeed in becoming a refugee from communism, there are many more wh do not want to be contained by the lines which statesmen have draw in the hope that that would solve their problems.

In the world today, with air the means of communication, wit time and space almost annihilated, geography still remains a fact But geographical solutions rarely coincide with human solution That is why we do not accept the finality of a divided world.

Another dilemma that we face might be described as that of th part vs. the entire story.

It is almost always easy to find a solution if only part of a proble is known. It is my experience that those who are most positiv about political problems are able to be positive only because the do not know all the relevant facts. Those who are most harsh i their judgments are able to be harsh for that same reason. Whe the whole of a problem is known, solutions become excessively difficul and judgments are not easily made. Tolerance has become a vita need.

There is hardly any international problem which lends itself t easy or sure solution. Those who principally know Europe readil judge that the problems of Asia are unimportant and that almost problems, nor any easy solutions. A course of action for Indochina may have to be judged in the light of its repercussions in Europe, the Middle East, or Moscow, and vice versa.

I have the impression that in the days before the world became so unified it was easier to take decisions. The issues were, or seemed to be, simple. Also, they could readily be explained. Today almost every problem has many complications, so that it is difficult adequately to explain the reasons for a decision and the multiple factors which go to make up that decision.

There is a habit of mind which is sometimes called "localitis." Those who are close to a problem, or those who only see part of a problem, quickly find a solution that seems obvious. Those who know more may find that the "obvious" solution is no solution at all. Balancing scales may, from one angle, seem clearly weighted on one side. But when seen in proper perspective, they may seem to be equally balanced, or weighted on the other side.

This need for balancing many factors has some undesirable consequences. I have already alluded to the fact that it makes adequate explanation difficult. Also, it often tends to deprive decisions of the dynamic quality which is needed to make them effective. Often the mainspring of action is a sense of certainty. Unhappily, those who are best informed are often deprived of that satisfaction.

The great deeds of history were wrought primarily by men with deep conviction and dynamic faith. They were sure that they were right.

It seems today that sureness can be dependably found only in the spiritual realm but that, when moral principles are sought to be practically applied, confidence tends to vanish. Certainty is not readily found in the mundane realm, at least where there is full knowledge of the facts. The yearning for more certainty and precision than is compatible with the complexity of affairs encourages only doctrinaire or fanatical attitudes and ultimate disillusionment. Perhaps it is good if fanaticism, in worldly terms, is on the way out.

Then we have the dilemma which might be called that of the spiritual vs. the material.

There are some who believe that moral considerations ought not to influence the foreign policy of a nation, that moral considerations are all right for the individual but not for the collective unity. Corporate bodies, it is argued, should be directed only by material considerations.

It is, I suppose, always true that those who act in a representative and trustee capacity do not have the same freedom as is had by individuals in dealing with their own lives and the property they own. Thus, directors of a corporation are, in general, not free to use corporate assets for charitable purposes unconnected with the welfare of the corporation. To a degree, I suppose, the same principles apply to those who are trustees for a nation.

It is, indeed, generally the case that those who represent a government operate only for the immediate and direct self-interest of the governmental grants. It is assumed that governments do not give way their taxpayers' money unless they see some specific *quid pro quo*

The Government of the United States has, I like to believe, ather unique tradition in this respect. Our nation was founded a n experiment in human liberty. Our institutions reflect the belie f our founders that all men were endowed by their Creator with nalienable rights and had duties prescribed by moral law. They elieved that human institutions ought primarily to help men develo heir God-given possibilities and that our nation, by its conduct an xample, could help men everywhere to find the way to a better an nore abundant life.

Our nation realized that vision. There developed here an area o piritual and economic vigor the like of which the world had neve een. It was no exclusive preserve; indeed, world mission was entral theme. Millions were welcomed from other lands, to shar qually the opportunities of the founders and their heirs. We pu ur experiment on public exhibition so that all might see and follow f they would. Through the establishment of schools and hospitals ften under religious auspices, American ideals were carried throughout the world. We gave aid and comfort to those elsewhere wh ought to follow in our way and to develop for themselves societies o reater human freedom.

These conditions prevailed for 100 years and more. Then, as ou naterial power waxed, our spiritual power seemed to wane. W ppeared to be less concerned with conducting a great experiment fo he benefit of mankind and to be more concerned with piling up fo urselves material advantages. Our vision seemed to contract, an ur sense of mission to lessen.

We had to meet the severest test that can come to a people, th test of prosperity.

It was said by Jesus that material things will be added unto thos who seek first the Kingdom of God and His righteousness. But whe that happens, then comes the great trial. For, as Jesus warned those material things can readily become the rust that corrodes men' souls.[1]

Thus there is a familiar pattern. Men who feel a sense of duty t some higher Being strive here to do His will. Because of their faith they have power and virtue and simple wisdom. They build no only for the day, but for the morrow; not merely for themselves, bu for mankind. A society so founded will, when nature favors, produc wealth and luxury for many. When those byproducts come, the seem so good that they become promoted to be the all-sufficient end

So there came a time when our people were drawn away from long range creative effort and when they struggled to get and to hol material things. Practices originally designed to reflect a faith ma not have been adequately vitalized by continuing faith. I believe however, that it can fairly be said that, since the end of World War I our nation has recaptured the faith in which it was founded and ha

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Great American Experiment.

With 60 other nations we have actively participated i
Nations in its quest for peace. We have lent our mo
and material support to many free people. With m
nations we have special mutual security arrangements.
ures are our contribution to the creation of a world whic
more secure for human freedom. This basic interest is
bond between us and the other free nations.

We exert in every part of the world an influence—an inf
we try, as far as is humanly possible, to make an influen
and not an influence for self-aggrandizement.

No doubt we have made mistakes. But broadly s
nation has played a role which I believe history will judge
honorable. It is a role which we could not have played
who exercised the power of government had believed th
justified in putting moral considerations above material co

I have outlined some of the problems and perplexitie
front those who have political responsibility. I have delib
to avoid being dogmatic. Rather I have sought to st
own thinking. I will, however, close with this general o

It seems to me that a nation situated as is ours need
consistent and predictable course. We represent great
world—morally, intellectually, and materially. Other
nations who are free and want to stay free usually want
their policies with our own. I do not speak now of co
detail. As to details, there are almost always differen
inevitable, because differences are the attribute of fr
only despotism that produces conformity. I do, ho
of such basic harmony as freely emerges from those wh
of common destiny and who want to help, and be hel
other.

A measure of harmony exists today throughout muc
world. It binds together, in a spirit of partnership, man
races, creeds, and nationalities in many parts of the wor
harmony for which many thus grope will never be perfe
served unless the United States pursues a dependab
course.

There are many who, in particular cases, would like it
States would deviate from our basic principles to help the
particular problems. We rarely do so. That accounts
the superficial criticism we encounter abroad. But und
surface dissatisfactions lies, I feel, a deep, worldwide sen
for the United States because, even though we sometim
we do in general stand like a rock for certain principles
course which, in its broad nature, is consistent and
Without that, there can never be harmony and a sense
among the free peoples.

Obviously, a consistent and dependable national cour
a base broader than the particular beliefs of those who

time hold office. Our policies must, on the one hand, be c embraced by our own people and, on the other hand, reflec respect for the opinions of mankind. It would seem that c ples which conform to moral law meet that specification only the basic faith of our people, who are essentially rel also enlightened self-interest combine to urge that moral p a guide not merely to individual conduct but also to the the nations.

24. GENEVA MEETING OF FOUR HEADS OF GOVE (JULY 18–23, 1955): Report by the President, July 25,

Secretary Dulles and I, with our associates, went to th Conference at Geneva[2] resolved to represent as accurat could the aspirations of the American people for peac principles upon which this country believes that peace shoul

In this task we had the bipartisan, indeed almost the support of the Congress. This fact greatly strengthened throughout the negotiations. Our grateful thanks go out Senators and your Congressmen in the United States Aside from this, we had, during the past week, thousan grams of encouragement and support from you as individu with these came similar telegrams from great organizatio organizations, business and great labor organizations. A combined served to make us feel that possibly we were representing the views that you would have us represen

Now peace—the pursuit of peace—involves many questions. For example:

—Justice to all nations, great and small;

—Freedom and security for all these nations;

—The prosperity of their several economies and a risin of living in the world;

—Finally, opportunity for all of us to live in peace and

Now, naturally, in the study of such questions as thes proceed recklessly. We must go prudently and cautious reaching conclusions and in subsequent action. We cann be negligent or complacent. But we must be hopeful. have faith in ourselves and in the justice of our cause. do this, we will allow our own pessimism and our own la to defeat the noblest purposes that we can pursue.

Now, because of the vital significance of all these sub will be exhaustively surveyed by our Government over progress of those negotiations.

Of course an interesting subject that could be taken up, had I the time, would be the personalities of the several delegations—the relationship or apparent relationships of one to the other, the principal considerations that seem to motivate them. These would all have a bearing on this problem. But I forego them and take up instead just two general opinions in which I am sure every American shares:

The first of these, that we must never be deluded into believing that one week of friendly, even fruitful, negotiation can wholly eliminate a problem arising out of the wide gulf that separates, so far, East and West—a gulf as wide and deep as the difference between individual liberty and regimentation, as wide and deep as the gulf that lies between the concept of man made in the image of his God and the concept of man as a mere instrument of the state. Now if we think of those things we are apt to be possibly discouraged.

But I was also profoundly impressed with the need for all of us to avoid discouragement merely because our own proposals, our own approaches, and our own beliefs are not always immediately accepted by the other side.

On the night I left for Geneva, I appeared before the television to explain to you what we were seeking.[1] I told you that we were going primarily to attempt to change the spirit in which these great negotiations and conferences were held. A transcript was made of that talk, and I should like now to read you one paragraph from it.

This is what I said with respect to our purpose:

> . . . we will understand that one ingredient has been missing from all past conferences—an honest intent to conciliate, to understand, to be tolerant, to try to see the other fellow's viewpoint as well as we see our own. I say to you, if we can change the spirit in which these conferences are conducted, we will have taken the greatest step toward peace, toward future prosperity and tranquillity that has ever been taken in all the history of mankind.

During last week, in formal conferences and in personal visits, these purposes have been pursued. So now there exists a better understanding, a closer unity among the nations of NATO.

There seems to be a growing realization by all that nuclear warfare, pursued to the ultimate, could be practically race suicide.

There is a realization that negotiations can be conducted without propaganda and threats and invective.

Finally, there is a sharp realization by the world that the United States will go to any length consistent with our concepts of decency and justice and right to attain peace. For this purpose, we will work cooperatively with the Soviets and any other people as long as there is sincerity of purpose and a genuine desire to go ahead.

In the course of carrying on these discussions there were a number of specific proposals, some of which were items on the official agenda.

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[1] Address of July 15, 1955; *infra*, pp. 2005–2008.

That agenda contained German reunification and European security disarmament, and increased contacts of all kinds between the East and the West.

Most of these conference meetings were given wide publicity, and even some of the specific suggestions made in those conferences likewise were publicized. In any event, I can assure you of one thing There were no secret agreements made, either understood agreements or written ones. Everything is put before you on the record.

Outside of these conference meetings there were numerous unofficia meetings—conversations with important members of the othe delegations and, of course, very specifically with the Soviet delegation In these conversations a number of subjects were discussed, and among them the Secretary of State and I specifically brought up, more than once, American convictions and American beliefs and American concern about such questions as the satellites of Eastern Europe and the activities of international communism.[1] We made crystal clear wha were American beliefs about such matters as these.

Now to take up for a moment the items on the official agenda.

Probably no question caused us as much trouble as that of German reunification and European security.[2] At first we thought that these could be dealt with separately, but the American delegation concluded that they had to be dealt with as one subject. We held tha Germany should be reunited under a government freely chosen by themselves, and under conditions that would provide security both fo nations of the East and for nations of the West—in fact in a framework that provided European security.

In the matter of disarmament, the American Government believes that an effective disarmament system can be reached only if at its base there is an effective reciprocal inspection and overall supervision system, one in which we can have confidence and each side can know that the other side is carrying out his commitments. Now, because of this belief, we joined with the French and the British in making several proposals. Some were global, some were local, some were sor of budgetary in character. But all were in furtherance of this one single objective, that is, to make inspection the basis of disarmamen proposals.[3]

One proposal suggested aerial photography,[4] as between the Soviets and ourselves, by unarmed peaceful planes, and to make this inspection just as thorough as this kind of reconnaissance can do. The principal purpose, of course, is to convince everyone of Western sincerity in seeking peace. But another idea was this: If we could go ahead and establish this kind of an inspection as initiation of an inspection system, we could possibly develop it into a broader one and eventually build on it an effective and durable disarmament system

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[1] See *The Geneva Conference of Heads of Government* . . ., pp. 20–21, 45, and *infra*, pp. 2009–2012.

[2] *Ibid.*, pp. 45–55, 69–75, and *infra*, pp. 1887–1896.

[3] *Ibid.*, pp. 55–62.

[4] *Infra*, pp. 2841–2843.

We talked about a freer flow of news across the Curtains of all kinds. We talked about the circulation of books, and particularly we talked about peaceful trade. But the subject that took most of our attention in this regard was the possibility of increased visits by the citizens of one country into the territory of another, doing this in such a way as to give each the fullest possible opportunity to learn about the people of the other nation. In this particular subject there was the greatest possible degree of agreement. As a matter of fact, it was agreement often repeated and enthusiastically supported by the words of the members of each side.

As a matter of fact, each side assured the other earnestly and often that it intended to pursue a new spirit of conciliation and cooperation in its contacts with the other. Now, of course, we are profoundly hopeful that these assurances will be faithfully carried out.

One evidence as to these assurances will, of course, be available soon in the language and the terminology in which we will find speeches and diplomatic exchanges couched. But the acid test should begin next October because then the next meeting occurs. It will be a meeting of the Foreign Ministers.[2] Its principal purpose will be to take the conclusions of this conference as to the subjects to be discussed there and the general proceedings to be observed in translating those generalities that we talked about into actual, specific agreements. Then is when real conciliation and some giving on each side will be definitely necessary.

Now, for myself, I do not belittle the obstacles lying ahead on the road to a secure and just peace. By no means do I underestimate the long and exhausting work that will be necessary before real results are achieved. I do not blink the fact that all of us must continue to sacrifice for what we believe to be best for the safety of ourselves and for the preservation of the things in which we believe.

But I do know that the people of the world want peace. Moreover, every other individual who was at Geneva likewise felt this longing of mankind. So there is great pressure to advance constructively, not merely to reenact the dreary performances—the negative performances—of the past.

We, all of us, individually and as a people now have possibly the most difficult assignment of our Nation's history. Likewise, we have the most shining opportunity ever possessed by Americans. May these truths inspire, never dismay us.

I believe that only with prayerful patience, intelligence, courage, and tolerance, never forgetting vigilance and prudence, can we keep alive the spark ignited at Geneva. But if we are successful in this, then we will make constantly brighter the lamp that will one day guide us to our goal—a just and lasting peace.

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[1] *The Geneva Conference of Heads of Government* . . . pp. 63–66, and *infra* pp. 2012–2013.

[2] See *infra*, pp. 1897–1927, 2018–2039, and 2844–2850.

25. GENEVA MEETING OF FOREIGN MINISTERS (OCTOBER 27–NOVEMBER 16, 1955): Report by the Secretary of State November 18, 1955 (Excerpts) [1]

For the last 3 weeks the British, the French, and ourselves have been negotiating with the Russians at Geneva. I got back yesterday and reported fully to the President in a talk which began last evening and was resumed this morning. Now I am reporting to you, the American people.

As I expect most of you know, this Geneva meeting did not reach any agreements. As a result many questions are in the air.

Does this mean that the so-called "spirit of Geneva" is dead?

Does it mean that the risk of war has increased?

Will the so-called "cold war" be resumed in full vigor?

Will the United States now have to change basically its military and mutual security programs?

Does it mean an end to negotiating with the Soviet Union?

I shall try to answer all of these questions.

First of all, however, I would like to recall how this latest Geneva conference came about.

I go back to last spring. Until then Soviet Russia had been pursuing a menacing policy. That was Stalin's line. He believed i was possible to ride roughshod over the free nations.

After Stalin died that effort continued for a time. The Soviets made intense and blustering efforts to keep West Germany apart from the other Western European nations. Despite this, the Federal Republic of Germany last May joined NATO and the Brussels Treaty creating Western European Union.[2]

This Soviet failure was followed by a change in the Soviet demeanor Stalin's successors professed, at least superficially, to desire cooperative relations with the free nations. And they made importan concessions for this purpose.

For example, they had for 8 years refused to sign the treaty which would give Austria her freedom. But last May they signed tha treaty [3] and pulled the Red Army out of Austria.

They made their peace with Tito,[4] who for 7 years had been the object of their most bitter attacks because he had taken Yugoslavia out of the Soviet bloc.

They moderated their propaganda and their manners.

They made it clear that they would like to sit down and talk with the Western nations.

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[1] Delivered on radio and television from Washington; Department of Stat *Bulletin*, Nov. 28, 1955, pp. 867–872. For documentation on the meeting, in

prospect, however slight, of making peace more just and durable. That response was backed up with virtual unanimity and on a bipartisan basis. So the United States joined with Britain and France to invite the Soviet leaders to the summit conference at Geneva.[1] There President Eisenhower met for 6 days with the Heads of the other three Governments in an effort to create a better atmosphere and a new impulse toward the solution of the problems that divide us.

That meeting indicated a desire on all sides to end the bitterness and harshness which could generate war. War, all recognized, would be a common disaster.

In addition, the Heads of Government agreed that their Foreign Ministers should get together in October to negotiate about European security and the problem of Germany, about the limitation of armament, and about the reduction of barriers between the Soviet bloc and the free world.

The three Western leaders recognized that the value of the summit conference would be largely determined by subsequent results. Thus, President Eisenhower, in the closing speech of the conference,[2] said,

> Only history will tell the true worth and real values of our session together. The followthrough from this beginning by our respective governments will be decisive in the measure of this conference.

Following the summit conference the United States, in cooperation with Britain, France, and the Federal Republic of Germany, prepared thoroughly for this Foreign Ministers conference that was to come.

We were fully aware of the complexity of the problems which we faced. The summit conference had shown deep differences on the issues of German unity and European security, disarmament, and freer contacts. To be acceptable, solutions of these problems must take account of legitimate interests on both sides—especially as to security.

Our preparations for the meeting recognized this basic fact. The Western proposals provided the basis for real negotiations with the Soviet Union.

In my initial statement to the conference,[3] I expressed the point of view I have just outlined. "The United States," I said, came "to this meeting dedicated to exploring patiently and sincerely all possible approaches to realistic solutions of these problems."

Despite the effort, no specific agreements were reached.

The explanation, as I see it, is this: The Soviet Union appears to want certain results in terms of European security, disarmament, and contacts of a sort. But it is not yet willing to pay the price needed to get these results. And when I say pay the price, I do not refer to aining terms. I mean the price in terms of doing what is in- ntly necessary to reach the results which we all say we want.

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[1] See *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955) and *supra*, pp. 111–114 and *infra*, pp. 1887–1897, 2009–2016, and 2841–2843.

[2] *Infra*, pp. 2013–2014.

[3] See statement by the Secretary of State, Oct. 27, 1955; *The Geneva Meeting of Foreign Ministers . . .*, p. 25.

et me illustrate what I mean by telling you what happened at the erence.

rst of all, we talked about European security and Germany. Soviet Union wanted security against the possible resurgence of man militarism. This was not unreasonable in the light of what the sians had suffered from the German armies during World War II. Western powers were indeed prepared to meet the Soviet Union is matter.

e made security proposals of a serious and far-reaching nature.[1] aps the best proof of their merit is the fact that the Soviet delega- later came up with security proposals which copied many features r own.

ut there was one basic and decisive difference. Our proposals were d upon the reunification of Germany. We do not believe that peace in Europe can be based on the injustice of a divided Ger- y. The Soviet proposals were based on preserving the Soviet pet regime in East Germany and the indefinite division of Ger- y, at least unless Soviet control could be extended to all Germany.

he Soviet Union at the summit conference had explicitly promised onsider the reunification of Germany by free elections and had icitly recognized the close link between the reunification of nany and European security.[2]

e tried hard, but in vain, to get the Soviet delegation to discuss usly the problem of the reunification of Germany.

hen the Soviet Union came to face up to what that involved, it ed. Obviously, if Germany were reunified by free elections would mean the end of the puppet regime which the Soviet on has installed in East Germany. This in turn would almost ly have serious repercussions upon the other satellite countries Eastern Europe. There the Soviet-controlled governments are ng rising pressure. Many within the satellite countries believe the "spirit of Geneva" means that they are entitled to more toler- and to governments more responsive to the needs and aspirations eir own nation.

the Soviet Union took the position that while they were eager et a treaty of European security they would not be willing to ifice their East German regime to get it. Despite what they had ed to at the summit conference, they declared they would preserve r regime in East Germany, in clear defiance of the ardent wishes ne East Germans themselves.

me had thought that the Soviet Union might be willing to allow nany to be reunified by free elections if reunified Germany would

European security system to which it is a party, it is not willing to provide an essential prerequisite, namely, the reunification of Germany in freedom.

The second problem that we had to discuss was that of limitation of armament. Primary responsibility in this field is now with the United Nations disarmament subcommittee. But the Foreign Ministers were directed to help if they could.

Both sides showed an eager desire to bring about limitation of armament. We want this both as an aid to peace and to permit economic resources to be devoted in greater measure to the benefit of mankind. But the Western nations are unwilling to agree to disarm unless we can be sure that both sides are carrying out the agreement. That is why we insist that disarmament be effectively supervised and controlled.

Three times in this century the United States experience has shown that one-sided weakness in disarmament does not in fact preserve peace. The United States does not intend now to risk its very existence upon promises which may not be kept.

The United States is, however, second to none in its desire for safeguarded reduction of armaments. It was to make that more possible that President Eisenhower, at the summit conference, proposed to the Soviet Union an exchange of blueprints of military establishments, and then aerial inspection to verify the blueprints and thereby improve the atmosphere by dispelling the fear of aggressive intentions on either side.[1] That concept of President Eisenhower was rejected by the Soviets, although they did recognize for the first time that aerial inspection had a proper place in a control system.

But the Soviet Union does not attach the importance which we do to inspection and control. It continued to urge agreements, even though there was no way to check adequately whether these agreements were being fulfilled.

So our discussion of disarmament was inconclusive. We left further development of the subject to the United Nations subcommittee on disarmament.

It seems that the Soviet Government feels as yet unable to allow inspection and control which, if it is adequate, would open up their society, which is still largely based on secretiveness. So the Soviet Union, while wanting the immense benefits that could come from reduction of armament, is not willing to submit itself to the safeguards which would make this possible.

The third and final item of our agenda was the development of contacts between the East and the West. The Western powers put forward 17 proposals of a concrete nature.[2] Many of these would have involved the freer exchange of ideas, information, and news. All such proposals the Soviet delegation rejected. It was willing to have contacts which would enable it to garner technical knowhow from other countries. It was willing to send and receive persons under conditions which it could closely control. But it reacted

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violently against anything that smacked of the elimination of barriers to a freer exchange of ideas. It abhorred the introduction into the Soviet bloc of thoughts which might be contrary to the official doctrine of the Soviet Communist Party.

So we reached no agreement on this topic.

The reason again is clear. We believe that human contacts are designed, not to serve governmental purposes, but to enable the members of the human family to have the understanding and knowledge of each other which is a foundation for durable peace. But after a generation of fanatic indoctrination, the Soviet rulers can hardly bring themselves to loosen their existing thought controls to permit of freer contacts with the free world.

On all these matters dealt with at Geneva we tried to negotiate seriously with the Soviet Union. We wanted to reach constructive agreements if that could be done. But we were not prepared to reach agreements at the expense of the aspirations or security of the United States or its partners. Neither were we willing to make so-called "agreements" which were really meaningless. So when the Soviet Union showed itself unwilling to negotiate seriously on this basis we came away without agreement.

It would have been easy to make some apparent agreements with the Soviet Union—but they would have been without real content. They would have given an illusion of a meeting of minds, where none in fact existed. The three Western powers stood steadfastly against that kind of performance. In doing so, they showed their confidence in their own strength and in the steadfastness of their own people. Thereby, this conference may have improved the prospects for real agreements in the future.

I now turn to the answers to the questions which I put at the beginning:

(1) Does this second Geneva conference end the so-called "spirit of Geneva?"

The answer to that question depends upon what is meant by the "spirit of Geneva." Some felt that the spirit of Geneva was some magic elixir which would of itself solve all of the great problems of the world. Obviously it was not that. Any such view was doomed to disillusionment.

That was never the view of the President nor myself. We constantly warned against that view. President Eisenhower, before he went to Geneva, said that that conference would be a beginning and not an end.[1] At Geneva he said that the value of the conference could only be judged by what happened afterward.[2] And after he returned he told the American people that the acid test of the summit conference would begin when the Foreign Ministers met.[3]

That testing, so far as it has gone, has shown that the Soviet leaders world can justifiably place in Soviet promises. They did this by refusing to negotiate for the reunification of Germany, to which they had agreed in July.

However, they seem not to want to revert to the earlier reliance on threats and invective. In that respect the spirit of Geneva still survives.

(2) *Has the outcome of the second conference at Geneva increased the risk of general war?*

President Eisenhower said that he believed that the summit conference made it less likely that there would be open war between our countries. Nothing that happened at the Foreign Ministers conference requires a change in that estimate. So that aspect of the Geneva spirit also remains.

(3) *Do the events of the last 3 weeks mean that the cold war will be resumed in its full vigor?*

The phrase "cold war" is a loose one.

Of course, there are sharp differences between the objectives of the Soviet Government and our own. We believe in justice for all and in the right of nations to be free and the right of individuals to exercise their God-given capacity to think and to believe in accordance with the dictates of their mind and conscience. We shall not cease to pursue these objectives or ever seek a so-called peace which compromises them.

However, these great purposes which have been characteristic of our Nation from its beginning can be and will be pursued by us without resort to violence or without resort to the use of hatred and perversion of truth which are characteristic of war. It is our purpose to continue to seek friendship and understanding with the Russian people as a whole and to use truth as the instrument of our national policy.

The "cold war" in the sense of peaceful competition will inevitably go on. The spirit of Geneva could not and did not change that fact. Moreover, we must assume that the Soviet Union will continue its efforts by means short of war to make its system prevail as it has done in the past. We can, however, hope that this competition will not entail all the same hostility and animosity which so defiled the relations between us in the past.

(4) *Will the United States now have radically to revise its programs for defense and mutual security?*

The answer to this is "No." We have not lowered our guard on the basis of Soviet promises and did not do so because of the summit conference. Our security programs, which are bipartisan in character, are designed to meet the peril as long as it may continue. We are on what we call a long-haul basis. Our military strength must be based on the capability of the Soviet bloc and cannot vary with their smiles or frowns. We will reduce our own military strength only as the Soviets demonstrably reduce their own. Hence the outcome of the Geneva conference does not require us to alter the general scope of our programs. Their general order of magnitude can remain as planned.

Our steady policies have proved their worth. We believe in fast, and reinforcing, that which has proved good.

(5) *Does this last Geneva conference mean an end to future ne with the Soviet Union?*

It need not be an end and neither the President nor I beli it will be an end. It would of course be foolish to attempt ne tiations if everything remains as it was when this last co came to an end.

We know, however, that conditions will change because c the law of life.

At this Geneva conference the Soviet Union had to face cretely to the cost of achieving the larger results which it wants in terms of European security, disarmament, and i contacts between East and West.

On this occasion no positive results were achieved. But that President Eisenhower, after returning from Geneva, s he was "profoundly impressed with the need for all of us t discouragement merely because our own proposals, our c proaches, and our own beliefs are not always immediately a by the other side." And he pointed to the difficulty of brid wide and deep gulf between individual liberty and regime and between the concept of man made in the image of God concept of man as the mere instrument of the state.[1]

That gulf has created obstacles so great that they could overcome at this recent Geneva conference.

That does not mean that our efforts at that conference were The proposals we advanced were basically sound and respe legitimate interest of all. When solutions come, they will take into account the principles which we sought to apply.

The Soviets pride themselves on being realists. They hav in the past that they will adapt their policies to facts and once they recognize them. We believe that the free nati maintaining and strengthening their unity, can make it app the Soviet Union that solutions such as we proposed are in interest and will benefit them more than the local and tempo vantages to which they now seem to attach overriding impor

Of course the Soviets will not change their policies if they that the free world is going to fall apart. That is why cont of the present partnership of the independent nations is indis to a peaceful solution of present problems.

It is vital that all free nations, including ourselves, clearly stand this basic truth.

. . . .

The statement which I made to you tonight follows extend ference with President Eisenhower. He authorizes me to s he fully shares the evaluation which I have made of the Gene ference and of its impact upon our national policies. That tion stems from the President's ruling and life purpose for a f and durable peace for the world, a purpose which I share and which, with him, I strive to implement.

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[1] *Supra.*

And now, in closing, let me read from my verbatim notes of our conference at Gettysburg this morning. As I was leaving, the President turned to me and said:

> "I know that no setback, no obstacle to progress will ever deter this government and our people from the great effort to establish a just and durable peace. Success may be long in coming, but there is no temporal force so capable of helping achieve it as the strength, the might, the spirit of 165 million free Americans. In striving toward this shining goal, this country will never admit defeat."

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26. THE FOUNDATION FOR A FIRM PEACE: Address by the Secretary of State, December 8, 1955 [1]

We are, it seems, in a new phase of the struggle between international communism and freedom.

The first postwar decade was a phase of violence and threat of violence. There was the continued Soviet military occupation of northern Iran,[2] the Communist guerrilla war in Greece,[3] the Soviet blockade of Berlin,[4] the Communist takeover of Czechoslovakia under the menace of armed invasion,[5] the war against Korea,[6] the war against Indochina,[7] the warfare in the Formosa Straits,[8] and the hostile threats against Western Europe when the German Federal Republic acted to join the West.[9]

Since last spring, this phase of violence seems to have undergone an eclipse. But we should remember that one of the doctrines taught by Lenin and constantly emphasized by Stalin was the need for "zigzag." Repeatedly Stalin drove home the idea that it is as important to know when to retreat as when to attack, and that when blocked in one course it is necessary to find another.

Stalin is dead. But for 30 years his writings have been the Communist creed, and Stalinism in fact, though not in name, is still a potent influence in Russia. In prudence, therefore, we must act on the assumption that the present Soviet policies do not mark a change of purpose but a change of tactics.

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[1] Before a meeting of the Illinois Manufacturers' Association, Chicago; Department of State *Bulletin*, Dec. 19, 1955, pp. 1003–1007.

[2] See *supra*, p. 48, footnote 4.

[3] See *A Decade of American Foreign Policy*, pp. 753–782, 1252–1267.

[4] See *Germany, 1947–1949: The Story in Documents* (Department of State

fore, it is useful to have clearly in mind what are the free-world policies which have caused the Soviet Union to shift from tactics of violence and intimidation as being unproductive.

The free nations have adopted and implemented two interrelated policies for collective security. The first policy is to give clear warning that armed aggression will be met by collective action. The second policy is to be prepared to implement this political warning with deterrent power.

The first major political warning to the Soviet Union was expressed in the North Atlantic Treaty,[1] a product of the Democrat-Republican cooperation of 1948 and 1949. By the North Atlantic Treaty, the parties told the Soviet rulers that, if they attacked any one, they would have to fight them all. If the Kaiser and Hitler had known in advance that their aggressions would surely bring against them the full power of the United States, they might never have begun their armed aggression. As it was, they did what despots readily do—they miscalculated. The North Atlantic Treaty left no room for such miscalculation. That, said Senator Vandenberg, was "the most practical deterrent [. . .] to war which the wit of man has yet devised."[2]

But the North Atlantic Treaty was not enough. With that alone, it might be inferred that we were relatively indifferent to what occurred elsewhere, notably in Asia. And, indeed, less than a year after the North Atlantic Treaty came into force, the Communists attacked the Republic of Korea.

But now, except for countries of South Asia which choose "neutralism," the gaps in the political warning system have been closed. The United States with bipartisan cooperation has made mutual security treaties with the Philippines,[3] Japan,[4] the Republic of Korea,[5] and with the Republic of China[6] on Taiwan. We have entered into the ANZUS [Australia-New Zealand-U.S.] Pact.[7] We have joined with seven other nations to make the Southeast Asia Collective Defense Treaty.[8] There is the Balkan alliance of Yugoslavia, Greece, and Turkey[9] and the Baghdad Pact, which includes the "northern tier" of Turkey, Iraq, Iran, and Pakistan.[10]

All of these treaties are made pursuant to what the United Nations Charter calls the "inherent right of collective self-defense."[11] Together they constitute a worldwide political warning system. They prevent the despots from miscalculating that they can use Red armies to conquer weaker nations, one by one.

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[1] *Infra,* pp. 812–815.

[2] Address of July 6, 1949; *Congressional Record,* vol. 97, part 11, p. 8897.

[3] *Infra,* pp. 873–875.

[4] *Infra,* pp. 885–886.

[5] *Infra,* pp. 897–898.

[6] *Infra,* pp. 945–947.

[7] *Infra,* pp. 878–880.

[8] *Infra,* pp. 912–916.

[9] *Infra,* pp. 1235–1239.

[10] *Infra,* pp. 1257–1259.

[11] Article 51 of the U. N. Charter; *infra,* p. 146.

must have backing if it is effectively to deter. That poses a difficult problem.

> With more than 20 nations strung along the 20,000 miles of iron curtain, it is not possible to build up static defensive forces which could make each nation impregnable to such a major and unpredictable assault as Russia could launch. To attempt this would be to have strength nowhere and bankruptcy everywhere. That, however, does not mean that we should abandon the whole idea of collective security and merely build our own defense area. . . . Fortunately, we do not have to choose between two disastrous alternatives. It is not necessary either to spread our strength all around the world in futile attempts to create everywhere a static defense, nor need we crawl back into our own hole in the vain hope of defending ourselves against all of the rest of the world. . . . As against the possibility of full-scale attack by the Soviet Union itself, there is only one effective defense, for us and for others. That is the capacity to counterattack. That is the ultimate deterrent. . . . The arsenal of retaliation should include all forms of counterattack with a maximum flexibility. . . . In such ways, the idea of collective security can be given sensible and effective content.

What I have just been saying is what I said 5 years ago.[1]

That program has now become a reality. We have developed, with our allies, a collective system of great power which can be flexibly used on whatever scale may be requisite to make aggression costly. Our *capacity* to retaliate must be, and is, massive in order to deter all forms of aggression. But if we have to *use* that capacity, such use would be selective and adapted to the occasion.

> To deter aggression, it is important to have the flexibility and the facilities which make various responses available. In many cases, any open assault by Communist forces could only result in starting a general war. But the free world must have the means for responding effectively on a selective basis when it chooses. It must not put itself in the position where the only response open to it is general war. The essential thing is that a potential aggressor should know in advance that he can and will be made to suffer for his aggression more than he can possibly gain by it. This calls for a system in which local defensive strength is reinforced by more mobile deterrent power. The method of doing so will vary according to the character of the various areas.

What I have been saying is from an article I wrote about 2 years ago.[2]

Our mutual security arrangements help provide the local defensive strength needed to preserve internal order against subversive tactics and to offer a resistance to aggression which would give counterattacking, highly mobile forces time to arrive.

Thus we have collective defense policies which, on the one hand, are calculated to deter armed aggression and which, on the other hand, we can, if need be, live with indefinitely.

The two elements I have described—on the one hand, a political warning system and, on the other hand, selective retaliatory power—constitute in combination a firm foundation for peace. If we want peace to continue, we must preserve that foundation intact.

We earnestly strive for some dependable system of limitation of armament. Until we succeed in such efforts, however, we and our allies must constantly maintain forces, weapons, and facilities necessary to deter armed aggression, large or small. That is an indispensable price of peace.

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[1] In an address before the American Association for the United Nations, New York, Dec. 29, 1950; Department of State *Bulletin*, Jan. 15, 1951, p. 85.

[2] *Foreign Affairs*, April 1954; see also Department of State *Bulletin*, Mar. 29,

But we dare not assume that the only danger is that of armed aggression and that, if armed aggression can be deterred, we can otherwise relax. There still exist grave injustices to be cured and grave dangers to be averted.

President Eisenhower, speaking last August,[1] pointed out that—

> Eagerness to avoid war—if we think no deeper than this single desire—can produce outright or implicit agreement that injustices and wrongs of the present shall be perpetuated in the future. We must not participate in any such false agreement. Thereby, we would outrage our own conscience. In the eyes of those who suffer injustice, we would become partners with their oppressors. In the judgment of history we would have sold out the freedom of men for the pottage of a false peace. Moreover, we would assure future conflict!

And the President went on to point to the division of Germany and the domination of captive countries as an illustration of the injustices of which he spoke.

We shall not seek to cure these injustices by ourselves invoking force. But we can and will constantly keep these injustices at the forefront of human consciousness and thus bring into play the force of world opinion which, working steadily, will have its way. For no nation, however powerful, wishes to incur, on a steadily mounting basis, the moral condemnation of the world.

This force was a potent factor in bringing Austria its freedom. Last May, after 7 years of delay, the Soviet Union signed the Austrian Treaty,[2] the Red forces were withdrawn, and Austria was liberated.

We face a similar problem with respect to the reunification of Germany. The July meeting of the Heads of Government at Geneva had brought this problem to the forefront.[3] There the four Heads of Government had explicitly agreed that "the reunification of Germany by means of free elections shall be carried out."[4] However, at the second Geneva conference last month,[5] the Soviet Union repudiated that agreement, despite Western offers which gave maximum assurances that a reunified Germany would not create insecurity for the Soviet Union and any of Germany's neighbors. Apparently the Soviets realized that all-German elections would surely remove from power the puppet regime which it has installed in East Germany. This, in turn, would have repercussions throughout the Soviet satellite world.

Therefore, the Soviet Union took the rigid position that it could accept no proposals for Germany, however reasonable, if they might

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[1] Before the American Bar Association, Philadelphia, Aug. 24; *ibid.*, Sept. 5, 1955, p. 375.

[2] *Infra*, pp. 643–675.

[3] For the Geneva Conference documentation, see *The Geneva Conference of*

The result is that the West must continue to maintain the pressure of world opinion for the undoing of the present injustice which separates 17 million Germans from the great body of their fellows.

The Western European nations need also to continue to develop their own unity, not merely for defense, but also for well-being. It is the past divisions of Western Europe, and the rivalries of these nations, which has been the greatest cause of war and economic weakness.

The North Atlantic Treaty Organization serves greatly, not only to protect Europe but to provide a sense of unity and fellowship. I shall be sharing in that next week when Secretary Humphrey, Secretary Wilson, and I go to Paris for the December NATO Ministerial Council meeting.[1] These meetings enable the Ministers of Foreign Affairs, of Finance, and of Defense to consult together and tighten the bonds which join the 15 NATO partners. These bonds are strong and tested. NATO is more than a mere military defense. Its members are constantly seeking and finding useful ways, other than military, to give expression to the closeness and warmth of their relationship.

But there is also need for unity on a more intimate basis among the continental European nations themselves. The six nations of France, Germany, Italy, Belgium, the Netherlands, and Luxembourg already have begun to create common institutions, notably the Coal and Steel Community.[2] I was glad to find on my last visit to Europe that the movement to develop along these lines is taking on new vitality. That movement must obtain its strength primarily from the peoples concerned. It is, however, a development in which the United States has a deep interest and which it is prepared to support if opportunity offers.

As this movement develops, it is bound to exert a powerful influence on the Eastern European countries. If the Western European countries find, in unity, increased prosperity, there will be increasing pressure in the satellite countries for independent governments responsive to the needs and aspirations of the people.

This may speed the day when the Soviet rulers will come to realize that to hold these Eastern European nations in subjugation involves an obsolete reactionary practice, entailing costs, moral and material, far outweighing the seeming advantages.

New tasks also confront us in the less developed areas of the world. There, hundreds of millions of people lack what could and should be theirs.

These areas have always been a target of Soviet communism.

Today, as the Soviet rulers are balked in their effort to extend their influence by force, they have picked these areas as targets of their guile. The Soviet peoples seriously lack many of the commodities of everyday living. The satellite peoples are particularly exploited, and their standards of living have been seriously reduced. But the cern for the welfare of those whom they call "colonial and dependent peoples" whose "amalgamation" into the Soviet Communist orbit has always been an open goal of Soviet policy.

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[1] See *infra*, pp. 1653–1655.

[2] See *infra*, pp. 1039–1097.

The Soviet rulers, themselves exponents of a materialistic philosophy, have concentrated their educational efforts on training scientists. By now, the Soviet output of trained technical personnel is large. Also these technicians are always at the command of their government, to do whatever their government wants. They are thus available to go into the other areas, as a symbol of promises which are alluring.

We need not become panicky because Soviet communism now disports itself in this new garb. We need not assume, as some seem to assume, that the leaders in the Asian countries are unaware of danger and easily duped by false promises. These leaders have, indeed, had much political experience and have helped to win great political successes for their countries.

But the peoples of free countries which are not adequately developed do need the kind of help which matured industrial economies have historically provided for less developed economies. The flow of private capital partly meets that need. But government also has an important role to play.

We have indeed for several years had a governmental program for economic and technical assistance, much of which is directed to the less developed areas.[1] That program is manned by a splendid corps of dedicated men and women. Congress has appropriated substantial funds to finance this program and to provide economic aid, much of which goes to the less developed areas. We expect to ask the Congress this coming year for as much money for this purpose as we think can usefully be spent, and we expect that the Congress will, as in the past, patriotically respond. Also we shall seek somewhat more flexibility than heretofore.

We are helping in other ways too. For example, our scientists, with the help of those from other free countries, had the imagination to see the immense possibilities in fissionable material. We were the first to crack the atom and to find the way to harness its vast power. We are in the lead in developing President Eisenhower's program of atoms for peace.[2]

However, the coming years pose a challenge to our Nation and its people. A grudging response will not be enough. Nor will public money alone provide the answer. An effective response will call for a revival of the crusading spirit of our past.

We need to recapture the spirit which animated our missionaries, our doctors, our educators, and our merchants who, during the last century, went throughout the world carrying the benefits of a new way of life. For the most part these persons were not seeking to make money for themselves, although the profit motive was an honor-unique joy that comes from creating and from sharing.

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[1] See *infra*, pp. 3047–3054, 3055–3058, and 3140–3145.

[2] See *infra*, pp. 2798–2817, 2823–2839, 2853–2877, and 2883–2887.

It would indeed be tragic if our people, and particularly our youth, now became so attracted by mercenary considerations, by the lure of the market place, that they lost the missionary spirit, the sense of destiny, which has been characteristic of our Nation since its beginning and which has made it great.

I frequently think of the scriptural promise that material things will be added unto those who seek first the Kingdom of God and His righteousness.[1] This Nation has from its earliest days been influenced by religious ideals. Our forebears believed in a Divine Creator who had endowed all men with certain inalienable rights. They believed in a moral law and in its concepts of justice, love, and righteousness. They had a sense of mission in the world, believing it their duty to help men everywhere to be and to do what God designed. They saw a great prospect and were filled with a great purpose.

Under the impulsion of that faith, there developed here an area of spiritual, intellectual, and economic vigor the like of which the world had never seen. It was no exclusive preserve. Indeed, sharing was a central theme. Millions were welcomed from other lands to share equally the opportunities of the founders and their heirs. Through missionary activities and the establishment of schools and churches American ideals were carried throughout the world. Our Government gave aid and comfort to those elsewhere who sought to increase human freedom.

Meanwhile, material things were added to us. Now we must take care lest those byproducts of great endeavor seem so good that they become promoted to be the all-sufficient end.

That is the danger against which we must always be on guard. That is particularly the case today, when a huge materialistic state like the Soviet Union, thwarted in its efforts to aggrandize itself by force, coldly and cruelly calculates on how to exploit, for its selfish ends, the aspirations of the peoples of less developed lands.

What the world needs to know at this juncture is that our Nation remains steadfast to its historic ideals and follows its traditional course of sharing the spiritual, intellectual, and material fruits of our free society, in helping the captives to become free and helping the free to remain free, not merely in a technical sense but free in the sense of genuine opportunity to pursue happiness, in the spirit of our Declaration of Independence.

And may we never forget that, as Lincoln said, that declaration was not something exclusive to us, but there was "something in that declaration giving liberty, not alone to the people of this country, but hope for [to] the world for all future time. It was that which gave promise that in due time the weights should be lifted from the shoulders of all men, and that all should have an equal chance."[2]

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[1] Matthew 6:33.

[2] Speech, Independence Hall, Philadelphia, Feb. 22, 1861; Roy P. Basler, ed., *The Collected Works of Abraham Lincoln,* vol. IV (New Brunswick, N. J., 1953), p. 240

also be the spirit in which we live.

27. THE STATE OF THE UNION: Message by the President to the Congress, January 5, 1956 (Excerpts)[1]

. . . .

Our world policy and our actions are dedicated to the achievement of peace with justice for all nations.

With this purpose we move in a wide variety of ways and through many agencies to remove the pall of fear; to strengthen the ties with our partners and to improve the cooperative cohesion of the free world; to reduce the burden of armaments; and to stimulate and inspire action among all nations for a world of justice and prosperity and peace. These national objectives are fully supported by both our political parties.

In the past year our search for a more stable and just peace has taken varied forms. Among the most important were the two conferences at Geneva, in July and in the fall of last year. We explored the possibilities of agreement on critical issues that jeopardize the peace.

The July meeting of Heads of Government[2] held out promise to the world of moderation in the bitterness, of word and action, which tends to generate conflict and war. All were in agreement that a nuclear war would be an intolerable disaster which must not be permitted to occur. But in October, when the Foreign Ministers met again,[3] the results demonstrated conclusively that the Soviet leaders are not yet willing to create the indispensable conditions for a secure and lasting peace.

Nevertheless, it is clear that the conflict between international communism and freedom has taken on a new complexion.

We know the Communist leaders have often practiced the tactics of retreat and zigzag. We know that Soviet and Chinese communism still poses a serious threat to the free world. And in the Middle East recent Soviet moves are hardly compatible with the reduction of international tension.

Yet Communist tactics against the free nations have shifted in emphasis from reliance on violence and the threat of violence to reliance on division, enticement, and duplicity. We must be well prepared to meet the current tactics, which pose a dangerous though less obvious threat. At the same time our policy must be dynamic our own objectives rather than to meet each shift and change on the Communist front. We must act in the firm assurance that the fruits of freedom are more attractive and desirable to mankind in the pursuit of happiness than the record of communism.

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[1] H. Doc. 241, 84th Cong., 2d sess.; Department of State *Bulletin*, Jan. 16 1956, pp. 79–84.

[2] For the Geneva Conference documentation, see *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955), and *supra*, pp. 111–114, and *infra*, pp. 1887–1897, 2009–2016, and 2841–2843.

[3] For the Foreign Ministers Conference documentation, see *The Geneva Meeting of Foreign Ministers, October 27–November 16, 1955* (Department of State publication 6156; 1955), and *supra*, pp. 115–122, and *infra*, pp. 1897–1927, 2018–2039,

In the face of Communist military power, we must, of course, continue to maintain an effective system of collective security. This involves two things—a system which gives clear warning that armed aggression will be met by joint action of the free nations and deterrent military power to make that warning effective. Moreover, the awesome power of the atom must be made to serve as a guardian of the free community and of the peace.

In the last year the free world has seen major gains for the system of collective security: the accession to the North Atlantic Treaty Organization and Western European Union of the sovereign Federal German Republic;[1] the developing cooperation under the Southeast Asia Collective Defense Treaty;[2] and the formation in the Middle East of the Baghdad Pact among Turkey, Iraq, Iran, Pakistan, and the United Kingdom.[3] In our own hemisphere the inter-American system[4] has continued to show its vitality in maintaining peace and a common approach to world problems. We now have security pacts with more than 40 other nations.[5]

In the pursuit of our national purposes, we have been steadfast in our support of the United Nations, now entering its second decade with a wider membership and ever-increasing influence and usefulness. In the release of our 15 fliers from Communist China,[6] an essential prelude was the world opinion mobilized by the General Assembly which condemned their imprisonment and demanded their liberation.[7] The successful atomic energy conference held in Geneva under United Nations auspices[8] and our atoms-for-peace program[9] have been practical steps toward the worldwide use of this new energy source. Our sponsorship of such use has benefited our relations with other countries. Active negotiations are now in progress to create an international agency to foster peaceful uses of atomic energy.[10]

During the past year the crucial problem of disarmament has moved to the forefront of practical political endeavor. At Geneva I declared the readiness of the United States to exchange blueprints of the military establishments of our nation and the U.S.S.R., to be confirmed by reciprocal aerial reconnaissance.[11] By this means I felt mutual suspicions could be allayed and an atmosphere developed in which negotiations looking toward limitation of arms would have improved chances of success.

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[1] *Infra*, pp. 871–873 and 972.
[2] *Infra*, pp. 2334–2337.
[3] *Infra*, pp. 1257–1259.
[4] See *infra*, pp. 1279–1285 and 1346–1364.
[5] See map, *infra*, pp. 789–790.
[6] See *infra*, pp. 2713–2714.
[7] General Assembly Res. 906 (IX), adopted Dec. 10, 1954; *infra*, pp. 2711–2712.
[8] See *infra*, pp. 2826–2832.
[9] *Infra*, pp. 2877–2887.
[10] See *infra*, pp. 2832–2837.
[11] *Infra*, pp. 2841–2843.

In the United Nations Subcommittee on Disarmament last fall, this proposal was explored and the United States also declared itself willing to include reciprocal ground inspection of key points. By the overwhelming vote of 56 to 7, the United Nations on December 16 endorsed these proposals and gave them a top priority.[1] Thereby, the issue is placed squarely before the bar of world opinion. We shall persevere in seeking a general reduction of armaments under effective inspection and control, which are essential safeguards to insure reciprocity and protect the security of all.

In the coming year much remains to be done.

While maintaining our military deterrent, we must intensify our efforts to achieve a just peace. In Asia we shall continue to give help to nations struggling to maintain their freedom against the threat of Communist coercion or subversion. In Europe we shall endeavor to increase not only the military strength of the North Atlantic alliance but also its political cohesion and unity of purpose. We shall give such assistance as is feasible to the recently renewed effort of Western European nations to achieve a greater measure of integration, such as in the field of peaceful uses of atomic energy.

In the Near East we shall spare no effort in seeking to promote a fair solution of the tragic dispute between the Arab States and Israel, all of whom we want as our friends. The United States is ready to do its part to assure enduring peace in that area. We hope that both sides will make the contributions necessary to achieve that purpose. In Latin America we shall continue to cooperate vigorously in trade and other measures designed to assist economic progress in the area.

Strong economic ties are an essential element in our free-world partnership. Increasing trade and investment help all of us prosper together. Gratifying progress has been made in this direction, most recently by the 3-year extension of our trade-agreements legislation.[2]

I most earnestly request that the Congress approve our membership in the Organization for Trade Cooperation,[3] which would assist the carrying out of the General Agreement on Tariffs and Trade,[4] to which we have been a party since 1948. Our membership in the OTC will provide the most effective and expeditious means for removing discriminations and restrictions against American exports and in making our trade agreements truly reciprocal. United States membership in the Organization will evidence our continuing desire to cooperate in promoting an expanded trade among the free nations. Thus the Organization, as proposed, is admirably suited to our own interests and to those of like-minded nations in working for steady expansion of alter the control by Congress of the tariff, import, and customs policies of the United States.

We need to encourage investment overseas by avoiding unfair tax duplications, and to foster foreign trade by further simplification and improvement of our customs legislation.

We must sustain and fortify our Mutual Security Program. Because the conditions of poverty and unrest in less developed areas make their people a special target of international communism, there is a need to help them achieve the economic growth and stability necessary to preserve their independence against Communist threats and enticements.

In order that our friends may better achieve the greater strength that is our common goal, they need assurance of continuity in economic assistance for development projects and programs which we approve and which require a period of years for planning and completion. Accordingly, I ask Congress to grant limited authority to make longer-term commitments for assistance to such projects, to be fulfilled from appropriations to be made in future fiscal years.[1]

These various steps will powerfully strengthen the economic foundation of our foreign policy. Together with constructive action abroad, they will maintain the present momentum toward general economic progress and vitality of the free world.

In all things, change is the inexorable law of life. In much of the world the ferment of change is working strongly; but grave injustices are still uncorrected. We must not, by any sanction of ours, help to perpetuate these wrongs. I have particularly in mind the oppressive division of the German people, the bondage of millions elsewhere, and the exclusion of Japan from United Nations membership.

We shall keep these injustices in the forefront of human consciousness and seek to maintain the pressure of world opinion to right these vast wrongs in the interest both of justice and secure peace.

Injustice thrives on ignorance. Because an understanding of the truth about America is one of our most powerful forces, I am recommending a substantial increase in budgetary support of the United States Information Agency.[2]

The sum of our international effort should be this: the waging of peace, with as much resourcefulness, with as great a sense of dedication and urgency as we have ever mustered in defense of our country in time of war. In this effort our weapon is not force. Our weapons are the principles and ideas embodied in our historic traditions, applied with the same vigor that in the past made America a living promise of freedom for all mankind.

To accomplish these vital tasks, all of us should be concerned with

Because peace is the keystone of our national policy, ou
program emphasizes an effective flexible type of power calc
deter or repulse any aggression and to preserve the peace.
war we have never had military strength better adapted to c
with improved readiness for emergency use. The maintenan
strong military capability for the indefinite future will contin
for a large share of our national budget. Our military progra
meet the needs of today. To build less would expose the N
aggression. To build excessively, under the influence of fe
defeat our purposes and impair or destroy the very freedom
nomic system our military defenses are designed to protect.

We have improved the effectiveness and combat readine
forces by developing and making operational new weapon
integrating the latest scientific developments, including ne
weapons, into our military plans. We continue to push the p
of the most modern military aircraft. The development of lo
missiles has been on an accelerated basis for some time. We
ing as rapidly as practicable toward nuclear-powered aircraft a
Combat capability, especially in terms of firepower, has b
stantially increased. We have made the adjustments in
permitted by the cessation of the Korean war, the buildu
allies, and the introduction of new weapons. The service
planning realistically on a long-term basis.

To strengthen our continental defenses, the United St
Canada, in the closest cooperation, have substantially au
early-warning networks.[1] Great progress is being made in e
surveillance of the Arctic, the Atlantic, and the Pacific ap
to North America.

. . . . . .

To conclude: The vista before us is bright. The march o
the expanding economy, the advance in collective security
just peace—in this threefold movement our people are crea
standards by which the future of the Republic may be judge

Progress, however, will be realized only as it is more than
by a continuing growth in the spiritual strength of the Nati
dedication to moral values must be complete in our dealing
and in our relationships among ourselves. We have singl
devotion to the common good of America. Never must we fo
this means the well-being, the prosperity, the security of all A
in every walk of life.

To the attainment of these objectives I pledge full energ
administration as, in the session ahead, it works on a pro
submission to you, the Congress of the United States.

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[1] See *infra*, pp. 1427–1430.

Part II

THE UNITED NATIONS

Basic Document

1. CHARTER, JUNE 26, 1945 [1]

We the peoples of the United Nations
determined

to save succeeding generations from the scourge of war, w in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the d worth of the human person, in the equal rights of men a and of nations large and small, and

to establish conditions under which justice and respect for tions arising from treaties and other sources of internation be maintained, and

to promote social progress and better standards of life freedom,

and for these ends

to practice tolerance and live together in peace with one good neighbors, and

to unite our strength to maintain international peace an and

to ensure, by the acceptance of principles and the ins methods, that armed force shall not be used, save in th interest, and

to employ international machinery for the promotion of th and social advancement of all peoples,

Charter of the United Nations and do hereby establish an
tional organization to be known as the United Nations.

CHAPTER I

Purposes and Principles

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to t
to take effective collective measures for the prevention and
of threats to the peace, and for the suppression of acts of ag
or other breaches of the peace, and to bring about by peacefu
and in conformity with the principles of justice and inter
law, adjustment or settlement of international disputes or si
which might lead to a breach of the peace;

2. To develop friendly relations among nations based on
for the principle of equal rights and self-determination of
and to take other appropriate measures to strengthen univers

3. To achieve international cooperation in solving inter
problems of an economic, social, cultural, or humanitarian ch
and in promoting and encouraging respect for human rights
fundamental freedoms for all without distinction as to ra
language, or religion; and

4. To be a center for harmonizing the actions of nation
attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the
stated in Article 1, shall act in accordance with the following Pr

1. The Organization is based on the principle of the s
equality of all its Members.

2. All Members, in order to ensure to all of them the rig
benefits resulting from membership, shall fulfil in good f
obligations assumed by them in accordance with the present

3. All Members shall settle their international disputes by
means in such a manner that international peace and secur
justice, are not endangered.

4. All Members shall refrain in their international relatio
the threat or use of force against the territorial integrity or
independence of any state, or in any other manner inconsist
the Purposes of the United Nations.

5. All Members shall give the United Nations every assis
any action it takes in accordance with the present Charter, a
refrain from giving assistance to any state against which th
Nations is taking preventive or enforcement action.

6. The Organization shall ensure h t s at which are n t

as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II

MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942,[1] sign the present Charter and ratify it in accordance with Article 110.[2]

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.[3]

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the restored by the Security Council.

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[1] *A Decade of American Foreign Policy*, p. 2.

[2] The following states were original members of the United Nations: the United States, China, France, the Soviet Union, the United Kingdom, Argentina, Australia, Belgium, Bolivia, Brazil, the Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, the Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Haiti, Honduras, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, the Philippines, Poland, Saudi Arabia, Syria, Turkey, the Ukrainian Soviet Socialist Republic, the Union of South Africa, Uruguay, Venezuela, and Yugoslavia.

[3] The following states have been admitted to the United Nations: Afghanistan, Iceland, Sweden, and Thailand (1946); Pakistan and Yemen (1947); Burma (1948); Israel (1949); Indonesia (1950); and Albania, Austria, Bulgaria, Cambodia, Ceylon, Finland, Hungary, Ireland, Italy, Jordan, Laos, Libya, Nepal, Portugal Rumania, and Spain (1955).

Article 6

A Member of the United Nations which has persistently the Principles contained in the present Charter may be expell the Organization by the General Assembly upon the recomme of the Security Council.

CHAPTER III

ORGANS

Article 7

1. There are established as the principal organs of the Nations: a General Assembly, a Security Council, an Econo Social Council, a Trusteeship Council, an International C Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligi men and women to participate in any capacity and under co of equality in its principal and subsidiary organs.

CHAPTER IV

THE GENERAL ASSEMBLY

COMPOSITION

Article 9

1. The General Assembly shall consist of all the Members United Nations.

2. Each Member shall have not more than five representa the General Assembly.

FUNCTIONS AND POWERS

Article 10

The General Assembly may discuss any questions or any within the scope of the present Charter or relating to the pow functions of any organs provided for in the present Chart except as provided in Article 12, may make recommendations Members of the United Nations or to the Security Council or on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

VOTING

Article 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of

majority, shall be made by a majority of the members present and voting.

Article 19

A member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V

THE SECURITY COUNCIL

COMPOSITION

Article 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term o one year. A retiring member shall not be eligible for immediat re-election.[1]

3. Each member of the Security Council shall have one representative.

FUNCTIONS AND POWERS

Article 24

1. In order to ensure prompt and effective action by the Unitec Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibilit the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act ir accordance with the Purposes and Principles of the United Nations The specific powers granted to the Security Council for the discharg of these duties are laid down in Chapters VI, VII, VIII, and XII

3. The Security Council shall submit annual and, when necessary special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry ou the decisions of the Security Council in accordance with the presen Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armament of the world's human and economic resources, the Security Counci shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submittec to the Members of the United Nations for the establishment of system for the regulation of armaments.

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[1] The following countries have served as non-permanent members of th Security Council:

Countries	*Term ending*
Egypt, Mexico, the Netherlands	December 31, 1946
Australia, Brazil, Poland	December 31, 1947
Belgium, Colombia, Syria	December 31, 1948
Argentina, Canada, the Ukrainian S.S.R.	December 31, 1949
Cuba, Egypt, Norway	December 31, 1950
Ecuador, India, Yugoslavia	December 31, 1951
Brazil, the Netherlands, Turkey	December 31, 1952
Chile, Greece, Pakistan	December 31, 1953
Colombia, Denmark, Lebanon	December 31, 1954
Brazil, New Zealand, Turkey	December 31, 1955
Belgium, Iran, Peru	December 31, 1956
Australia, Cuba, Yugoslavia	December 31, 1957

Article 27

1. Each member of the Security Council shall have one
2. Decisions of the Security Council on procedural mat
be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matter
made by an affirmative vote of seven members including th
ring votes of the permanent members; provided that, in
under Chapter VI, and under paragraph 3 of Article 52, a
a dispute shall abstain from voting.

PROCEDURE

Article 28

1. The Security Council shall be so organized as to be abl
tion continuously. Each member of the Security Council sha
purpose be represented at all times at the seat of the Organiz
2. The Security Council shall hold periodic meetings at w
of its members may, if it so desires, be represented by a mem
government or by some other specially designated representa
3. The Security Council may hold meetings at such pla
than the seat of the Organization as in its judgment will best
its work.

Article 29

The Security Council may establish such subsidiary or
deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of proc
cluding the method of selecting its President.

Article 31

Any Member of the United Nations which is not a mem
Security Council may participate, without vote, in the dis
any question brought before the Security Council whenever
considers that the interests of that Member are specially af

Article 32

Any Member of the United Nations which is not a mem
Security Council or any state which is not a Member of t
Nations, if it is a party to a dispute under consideration b
curity Council, shall be invited to participate, without vote,
cussion relating to the dispute. The Security Council shall
such conditions as it deems just for the participation of a st
is not a Member of the United Nations.

CHAPTER VI

PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute, the continuance of which is likely t endanger the maintenance of international peace and security, shall first of all, seek a solution by negotiation, enquiry, mediation, con iliation, arbitration, judicial settlement, resort to regional agencie or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upo he parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situatio which might lead to international friction or give rise to a dispute, i order to determine whether the continuance of the dispute or situatio is likely to endanger the maintenance of international peace and se curity.

Article 35

1. Any Member of the United Nations may bring any dispute, o any situation of the nature referred to in Article 34, to the attentio f the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may brin to the attention of the Security Council or of the General Assembl any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided i the present Charter.

3. The proceedings of the General Assembly in respect of matter brought to its attention under this Article will be subject to th provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of th nature referred to in Article 33 or of a situation of like nature, recom mend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any pro cedures for the settlement of the dispute which have already bee adopted by the parties.

3. In making recommendations under this Article the Securit Council should also take into consideration that legal disputes shoul as a general rule be referred by the parties to the Internationa ourt of Justice in accordance with the provisions of the Statute o the Court.[1]

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[1] *A Decade of American Foreign Policy*, pp. 140–152.

1. Should the parties to a dispute of the nature refe
Article 33 fail to settle it by the means indicated in th
they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of t
is in fact likely to endanger the maintenance of internatio
and security, it shall decide whether to take action under
or to recommend such terms of settlement as it may consi
priate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, th
Council may, if all the parties to any dispute so request, ma
mendations to the parties with a view to a pacific settlem
dispute.

CHAPTER VII

ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACH PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any
the peace, breach of the peace, or act of aggression and s
recommendations, or decide what measures shall be taken
ance with Articles 41 and 42, to maintain or restore int
peace and security.

Article 40

In order to prevent an aggravation of the situation, th
Council may, before making the recommendations or deci
the measures provided for in Article 39, call upon the parties
to comply with such provisional measures as it deems ne
desirable. Such provisional measures shall be without pr
the rights, claims, or position of the parties concerned. Th
Council shall duly take account of failure to comply with
visional measures.

Article 41

The Security Council may decide what measures not inv
use of armed force are to be employed to give effect to its
and it may call upon the Members of the United Nations
such measures. These may include complete or partial in
of economic relations and of rail, sea, air, postal, telegrap
and other means of communication, and the severance of
relations.

Article 42

Should the Security Council consider that measures provi
Article 41 would be inadequate or have proved to be inad

may include demonstrations, blockade, and other operations by air sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make vailable to the Security Council, on its call and in accordance with special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air force contingents for combined international enforcement action The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43 by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament

2. The Military Staff Committee shall consist of the Chiefs

Staff of the permanent members of the Security Counci representatives. Any Member of the United Nations not per represented on the Committee shall be invited by the Com be associated with it when the efficient discharge of the Co responsibilities requires the participation of that Member in

3. The Military Staff Committee shall be responsible u Security Council for the strategic direction of any armed for at the disposal of the Security Council. Questions relati command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorizati Security Council and after consultation with appropriate agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Council for the maintenance of international peace and secu be taken by all the Members of the United Nations or by them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of t Nations directly and through their action in the appropri national agencies of which they are members.

Article 49

The Members of the United Nations shall join in affordin assistance in carrying out the measures decided upon by the Council.

Article 50

If preventive or enforcement measures against any state by the Security Council, any other state, whether a Memb United Nations or not, which finds itself confronted wit economic problems arising from the carrying out of those shall have the right to consult the Security Council with re solution of those problems.

Article 51

Nothing in the present Charter shall impair the inheren individual or collective self-defense if an armed attack occu a Member of the United Nations, until the Security Council the measures necessary to maintain international peace and Measures taken by Members in the exercise of this right of se shall be immediately reported to the Security Council and in any way affect the authority and responsibility of the Council under the present Charter to take at any time such it deems necessary in order to maintain or restore internatio and security.

CHAPTER VIII

REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

International Economic and Social Cooperation

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X

COMPOSITION

Article 61

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate reelection.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.[1]

4. Each member of the Economic and Social Council shall have one representative.

FUNCTIONS AND POWERS

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommenda-

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[1] The following countries have been elected to the Economic and Social Council:

For the term ending Dec. 31, 1946: Colombia, Greece, Lebanon, the Ukrainian S.S.R., the United States, and Yugoslavia.

For the term ending Dec. 31, 1947: Cuba, Czechoslovakia, India, Norway, the Soviet Union, and the United Kingdom.

For the term ending Dec. 31, 1948: Belgium, Canada, Chile, China, France, and Peru. (Belgium resigned and was replaced by the Netherlands in 1946).

For the term ending Dec. 31, 1949: the Byelorussian, S.S.R., Lebanon, New Zealand, Turkey, the United States, and Venezuela.

For the term ending Dec. 31, 1950: Australia, Brazil, Denmark, Poland, the Soviet Union, and the United Kingdom.

For the term ending Dec. 31, 1951: Belgium, Chile, China, France, India, and Peru.

For the term ending Dec. 31, 1952: Canada, Czechoslovakia, Iran, Mexico, Pakistan, and the United States.

For the term ending Dec. 31, 1953: The Philippines, Poland, the Soviet Union, Sweden, the United Kingdon, and Uruguay.

For the term ending Dec. 31, 1954: Argentina, Belgium, China, Cuba, Egypt, and France.

For the term ending Dec. 31, 1955: Australia, India, Turkey, the United States, Venezuela, and Yugoslavia.

For the term ending Dec. 31, 1956: Czechoslovakia, Ecuador, Norway, Pakistan, the Soviet Union, and the United Kingdom.

For the term ending Dec. 31, 1957: Argentina, China, the Dominican Republic, Egypt, France, and the Netherlands.

For the term ending Dec. 31, 1958: Brazil, Canada, Greece, Indonesia, the United States, and Yugoslavia.

tions with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Article 67

1. Each member of the Economic and Social Council shall hav one vote.

2. Decisions of the Economic and Social Council shall be made b a majority of the members present and voting.

PROCEDURE

Article 68

The Economic and Social Council shall set up commissions i economic and social fields and for the promotion of human rights, an such other commissions as may be required for the performance o its functions.

Article 69

The Economic and Social Council shall invite any Member of th United Nations to participate, without vote, in its deliberations o any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote in its deliberations and in those of the commissions established by it and for its representatives to participate in the deliberations of th specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangement for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements ma be made with international organizations and, where appropriat with national organizations after consultation with the Member o the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules o procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convenin f meetings on the request of a majority of its members.

CHAPTER XI

Declaration Regarding Non-Self-Governing Territories

Article 73

Members of the United Nations which have or assume responsibili-attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII

INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

a. to further international peace and security;
b. to promote the political, economic, social, and educational dvancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory nd its peoples and the freely expressed wishes of the peoples conerned, and as may be provided by the terms of each trusteeship greement;
c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:[1]

a. territories now held under mandate;
b. territories which may be detached from enemy states as a result of the Second World War; and
c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

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[1] The following territories have been placed under the trusteeship system (administering powers indicated in parentheses and italics): New Guinea (*Australia*), Nauru (*Australia*), Western Samoa (*New Zealand*), British Cameroons (*United Kingdom*), French Cameroons (*France*), Tanganyika (*United Kingdom*), British Togoland (*United Kingdom*), French Togoland (*France*), Ruanda-Urund (*Belgium*), Somaliland (*Italy*), and the Trust Territory of the Pacific Islands (*United States*). All of these territories except Somaliland, formerly an Italian colony, were previously held under mandate from the League of Nations. The mandate for the islands now included in the Trust Territory of the Pacific Islands

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.
2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.
2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.
3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

The Trusteeship Council

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:

a. those Members administering trust territories;[1]

b. such of those Members mentioned by name in Article 23 as are not administering trust territories;[2] and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.[3]

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[1] Australia, Belgium, France, New Zealand, the United Kingdom, the United States (1947 to date), and Italy (1955 to date).

[2] China, the Soviet Union, and the United States (until 1947).

[3] The following countries have been elected to the Trusteeship Council:

Countries	*Term ending*
Iraq, Mexico	December 31, 1949
Costa Rica, Philippines	December 31, 1950
Iraq, Argentina	December 31, 1952
Dominican Republic, Thailand	December 31, 1953
El Salvador, Syria	December 31, 1955
Haiti, India	December 31, 1956
Guatemala, Syria, Burma	December 31, 1958

(Costa Rica resigned and was replaced by the Dominican Republic in 1949 Argentina resigned and was replaced by El Salvador in 1951.)

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;
b. accept petitions and examine them in consultation with the administering authority;
c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute,[1] which is based upon the Statute of the Permanent Court of International Justice [2] and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

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[1] Statute of June 26, 1945; *A Decade of American Foreign Policy*, pp. 140–152.

[2] Statute of Dec. 16, 1920, as amended by protocol of Sept. 14, 1929; *The International Court of Justice: Selected Documents Relating to the Drafting of the Statute* (Department of State publication 2491; 1946), pp. 1–13.

THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII

TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30

1943,[1] and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII

AMENDMENTS

Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

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[1] *A Decade of American Foreign Policy*, pp. 11–12.

CHAPTER XIX

RATIFICATION AND SIGNATURE

Article 110

1. The present Charter shall be ratified by the si
accordance with their respective constitutional proc

2. The ratifications shall be deposited with the G
United States of America, which shall notify all th
of each deposit as well as the Secretary-General of
when he has been appointed.

3. The present Charter shall come into force up
ratifications by the Republic of China, France, the
Socialist Republics, the United Kingdom of Great B
ern Ireland, and the United States of America, and
the other signatory states. A protocol of the ratifi
shall thereupon be drawn up by the Government of
of America which shall communicate copies thereo
tory states.

4. The states signatory to the present Charter wh
it has come into force will become original Memb
Nations on the date of the deposit of their respective

Article 111

The present Charter, of which the Chinese,
English, and Spanish texts are equally authentic,
posited in the archives of the Government of the
America. Duly certified copies thereof shall be tra
Government to the Governments of the other signat

IN FAITH WHEREOF the representatives of the Go
United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-s
one thousand nine hundred and forty-five.

2. MEMORANDUM FROM THE SECRETARY-GENERAL OF THE UNITED NATIONS[1] TO THE PRESIDENT OF THE UNITED STATES, APRIL 20, 1950[2]

As Secretary-General, it is my firm belief that a new and great effort must be attempted to end the so-called "cold war" and to set the world once more on a road that will offer greater hope of lasting peace.

The atmosphere of deepening international mistrust can be dissipated and the threat of the universal disaster of another war averted by employing to the full the resources for conciliation and constructive peace-building present in the United Nations Charter. The employment of these resources can secure eventual peace if we accept, believe and act upon the possibility of peaceful co-existence among all the Great Powers and the different economic and political systems they represent, and if the Great Powers evidence a readiness to undertake genuine negotiation—not in a spirit of appeasement—but with enlightened self-interest and common sense on all sides.

Measures for collective self-defence and regional remedies of other kinds are at best interim measures, and cannot alone bring any reliable security from the prospect of war. The one common undertaking and universal instrument of the great majority of the human race is the United Nations. A patient, constructive long-term use of its potentialities can bring a real and secure peace to the world. I am certain that such an effort will have the active interest and support of the smaller Member States, who have much to contribute in the conciliation of Big Power differences and in the development of constructive and mutually advantageous political and economic co-operation.

I therefore venture to suggest certain points for consideration in the formulation of a 20-year United Nations Peace Program. Certain of these points call for urgent action. Others are of a long-range nature, requiring continued effort over the next 20 years. I shall not discuss the problems of the peace settlements for Austria, Germany and Japan[3]—because the founders of the United Nations indicated that the peace settlements should be made separately from the United Nations. But I believe that the progress of a United Nations Peace Program such as is here suggested will help to bring these settlements far closer to attainment.

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[1] Trygve Lie.

[2] Department of State *Bulletin*, June 26, 1950, pp. 1052–1053. This memorandum was handed personally by the Secretary-General to the President of the United States, Apr. 20; to the Prime Minister of the United Kingdom, Apr. 28; to the Premier of France, May 2; and to the Prime Minister of the Soviet Union, May 15. The text printed in the *Bulletin* is the copy of the memorandum as enclosed by the Secretary-General with his letter of June 6, 1950, to each member of the United Nations.

[3] See *infra*, pp. 643–697, 1822–1886, 483–643, 1778–1821, 1839–1927, 425–483, and 2405–2427, respectively.

oy foreign ministers, or heads or other members of governments, as pronided by the United Nations Charter and the rules of procedure; togethe with further development and use of other United Nations machinery fo iegotiation, mediation and conciliation of international disputes.

The periodic meetings of the Security Council provided for in Articl 28 of the Charter have never been held. Such periodic meetings shoul oe held semiannually, beginning with one in 1950. In my opinion hey should be used for a general review at a high level of outstandin ssues in the United Nations, particularly those that divide the Grea Powers. They should not be expected to produce great decisions ever ime; they should be used for consultation—much of it in private— for efforts to gain ground toward agreement on questions at issue, t lear up misunderstandings, to prepare for new initiatives that ma mprove the chances for definitive agreement at later meetings. The should be held away from Headquarters as a general rule, in Geneva he capitals of the Permanent Members and in other regions of th vorld.

Further development of the resources of the United Nations fo nediation and conciliation should be undertaken, including re establishment of the regular practice of private consultations by th epresentatives of the five Great Powers, and a renewed effort t secure agreement by all the Great Powers on limitations on the use o he veto power in the pacific settlement procedures of the Securit Council.

2. *A new attempt to make progress toward establishing an internationa control system for atomic energy that will be effective in preventing it use for war and promoting its use for peaceful purposes.*

We cannot hope for any quick or easy solution of this most difficul problem of atomic energy control. The only way to find out what i possible is to resume negotiation in line with the directive of the General Assembly last fall "to explore all possible avenues and examine a concrete suggestions with a view to determining what might lead to a agreement."[1] Various suggestions for finding a basis for a fres approach have been put forward. One possibility would be for th Security Council to instruct the Secretary-General to call a conferenc of scientists[2] whose discussions might provide a reservoir of new idea on the control of weapons of mass destruction and the promotion o peaceful uses of atomic energy that could thereafter be explored in th United Nations Atomic Energy Commission.[3] Or, it may be that a nterim agreement could be worked out that would at least be som mprovement on the present situation of an unlimited atomic arm race, even though it did not afford full security. There are other possibilities for providing the basis for a new start; every possibility should be explored.

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[1] General Assembly Res. 299 (IV) of Nov. 23, 1949; *A Decade of America Foreign Policy*, p. 1135. The resolution as adopted read "with a view to determining whether they might lead to an agreement . . ."

[2] See *infra*, pp. 2823–2839.

[3] Established by a resolution adopted by the General Assembly, Jan. 24, 194 *A Decade of American Foreign Policy*, pp. 1078–1079.

3. *A new approach to the problem of bringing the armaments race under control not only in the field of atomic weapons, but in other weapons of mass destruction and in conventional armaments.*

Here is another area where it is necessary to re-activate negotiation and to make new efforts at finding some area of common ground. It must be recognized that up to now there has been virtually a complete failure here and that the immediate prospects seem poor indeed. Clearly disarmament requires an atmosphere of confidence in which political disputes are brought nearer to solution. But it is also true that any progress at all towards agreement on the regulation of armaments of any kind would help to reduce cold war tensions and thus assist in the adjustment of political disputes. Negotiation on this problem should not be deferred until the other great political problems are solved, but should go hand-in-hand with any effort to reach political settlements.

4. *A renewal of serious efforts to reach agreement on the armed forces to be made available under the Charter to the Security Council for the enforcement of its decisions.*

A new approach should be made towards resolving existing differences on the size, location and composition of the forces to be pledged to the Security Council under Article 43 of the Charter. Basic political difficulties which may delay a final solution should not be permitted to stand in the way of some sort of an interim accord for a small force sufficient to prevent or stop localized outbreaks threatening international peace. The mere existence of such a force would greatly enhance the ability of the Security Council to bring about peaceful settlements in most of the cases which are likely to come before it.[1]

5. *Acceptance and application of the principle that it is wise and right to proceed as rapidly as possible toward universality of membership.*

Fourteen nations[2] are now awaiting admission to the United Nations. In the interests of the people of these countries and of the United Nations, I believe they should all be admitted, as well as other countries which will attain their independence in the future.[3] It should be made clear that Germany and Japan would also be admitted as soon as the peace treaties have been completed.

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[1] For a modification of this proposal, see Res. 377 (V), adopted by the General Assembly, Nov. 3, 1950; *infra*, pp. 187–192.

[2] Albania, Austria, Bulgaria, Ceylon, Finland, Hungary, Indonesia, Ireland, Italy, Jordan, Korea, Nepal, Portugal, and Rumania.

[3] For subsequent action taken on the membership question, see *infra*, pp. 334–337.

development and encouragement of broad scale capital investment, usin ll appropriate private, governmental and inter-governmental resources.

A technical assistance program is in its beginnings,[1] assisted by th strong support of the President of the United States.[2] Its fundamental purpose is to enable the people of the under-developed countries to raise their standard of living peacefully by specific and practicable measures. It should be a continuing and expanding progran for the next 20 years and beyond, carried forward with the cooperatio of all Member Governments, largely through the United Nations anc the Specialized Agencies, with mutual beneficial programs plannec and executed on a basis of equality rather than on a basis of charity Through this means the opportunities can be opened up for capita nvestment on a large and expanding scale. Here lies one of our bes hopes for combating the dangers and costs of the cold war.[3]

7. *More vigorous use by all Member Governments of the Specialize Agencies of the United Nations to promote, in the words of the Charter "higher standards of living, full employment and conditions of economi and social progress."*

The great potentialities of the Specialized Agencies to participat n a long-range program aimed at drastically reducing the economi and social causes of war, can be realized by more active support from ll Governments, including the membership of the Soviet Union i ome or all of the Agencies to which it does not now belong.[4] Th expansion of world trade which is vital to any long-range effort fo world betterment requires the early ratification of the Charter of th International Trade Organization.[5]

8. *Vigorous and continued development of the work of the Unite Nations for wider observance and respect for human rights and fundamental freedoms throughout the world.*

It is becoming evident that the Universal Declaration of Huma Rights, adopted by the General Assembly in 1948 without a dissentin

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[1] See the resolutions adopted by the General Assembly Dec. 4, 1948, and Nov 16, 1949; *A Decade of American Foreign Policy*, pp. 1364–1366 and 1372, respectively.

[2] See the President's message of June 24, 1949, to the Congress; *ibid.*, pp 1367–1372.

[3] For action taken by the General Assembly on this portion of the progran ecommended by the Secretary-General, see its Resolutions 399–404 (V), adoptec Nov. 20, 1950 (General Assembly, *Official Records, Fifth Session, Supplemen No. 20* (A/1775), pp. 26–29).

[4] The list of specialized agencies of which the U.S.S.R. was not a member as o 1950 included the International Labor Organization, the Food and Agricultur Organization, the International Bank for Reconstruction and Development, th International Monetary Fund, the International Civil Aviation Organization he United Nations Educational, Scientific and Cultural Organization, the Worl Health Organization (though nominally a member, the U.S.S.R. did not participate in its work), the International Refugee Organization, and the Intergovernmental Maritime Consultative Organization.

[5] Charter of Mar. 24, 1948; abridged text in *A Decade of American Foreign Policy*

The United Nations is now engaged on a program that will extend over the next 20 years—and beyond—to secure the extension and wider observance of the political, economic and social rights there set down. Its success needs the active support of all Governments.

9. *Use of the United Nations to promote, by peaceful means instead of by force, the advancement of dependent, colonial or semi-colonial peoples, towards a place of equality in the world.*

The great changes which have been taking place since the end of the war among the peoples of Asia and Africa must be kept within peaceful bounds by using the universal framework of the United Nations. The old relationships will have to be replaced with new ones of equality and fraternity. The United Nations is the instrument capable of bringing such a transition to pass without violent upheavals and with the best prospect of bringing long-run economic and political benefits to all nations of the world.[2]

10. *Active and systematic use of all the powers of the Charter and all the machinery of the United Nations to speed up the development of international law towards an eventual enforceable world law for a universal world society.*

These three last points deal with programs already under way to carry out important principles of the United Nations Charter. They respond to basic human desires and aspirations and co-ordinated efforts by all Governments to further these programs are indispensable to the eventual peaceful stabilization of international relations. There are many specific steps which need to be taken, for example, under Point 10, ratification of the Genocide Convention,[3] greater use of the International Court of Justice, and systematic development and codification of international law. More important is that Governments should give high priority in their national policies to the continued support and development of these ideals which are at the foundation of all striving of the peoples for a better world.

What is here suggested is only an outline of preliminary proposals for a program; much more development will be needed. It is self-evident that every step mentioned, every proposal made, will require

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[1] Adopted Dec. 10, 1948; *ibid.*, pp. 1156–1159. For subsequent developments, see *infra*, pp. 204–246.

[2] For United Nations and related activities in this field, see *ibid.*, pp. 1025–1057; see also *infra*, pp. 247–261.

[3] For the text of the Convention on Genocide, approved by the U.N. General Assembly Dec. 9, 1948, see *ibid.*, pp. 966–969. The Senate has not taken definitive action on the question of the ratification of the convention by the United States. The convention has, however, come into force through ratification or adherence with respect to the Federal Republic of Germany, the Republic of Korea, Monaco, and Viet-Nam and all countries members of the United Nations (as of Dec. 31, 1955) except Austria, Bolivia, Colombia, the Dominican Republic, Finland, India, Indonesia, Iraq, Ireland, Libya, Luxembourg, Nepal, the Netherlands, New Zealand, Pakistan, Paraguay, Peru, Portugal, Spain, Thailand, the Union of South Africa, the United Kingdom, the United States, Uruguay, Vene-

administration. It is equally self-evident that the necessary measur of agreement will be hard to realize most of the time, and even impossible some of the time. Yet the world can never accept the thesi of despair—the thesis of irrevocable and irreconcilable conflict.

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3. STATEMENT BY THE SECRETARY OF STATE TO THE PRESS, JUNE 7, 1950 [1]

. . . .

The 10 specific points mentioned by Mr. Lie in his memorandum include subjects of major importance in the work of the United Nations. An examination of our record will disclose that the United States has cooperated wholeheartedly in the United Nations in th search for agreement and for progress in these fields. The United States has always been ready to negotiate with other members o the United Nations on any matter in the appropriate forum. W are willing to consider any possibilities put forward by Mr. Lie or by any other member of the United Nations which are believed to b practical. As I said in my speech at Berkeley last March, "ou attitude is not inflexible, our opinions are not frozen, our positions are not and will not be obstacles to peace." [2]

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4. RESOLUTION 494 (V) OF THE GENERAL ASSEMBLY, NOVEMBER 20, 1950 [3]

The General Assembly,

Having considered the "Memorandum [4] of points for consideration in the development of a 20-year programme for achieving peace through the United Nations" submitted by the Secretary-General,

Noting that progress has been made by the present session of the General Assembly with regard to certain of the points contained in the memorandum of the Secretary-General,

Reaffirming its constant desire that all the resources of the United Nations Charter be utilized for the development of friendly relations between nations and the achievement of universal peace,

1. *Commends* the Secretary-General for his initiative in preparing his memorandum and presenting it to the General Assembly;
2. *Requests* the appropriate organs of the United Nations to give

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[1] Department of State *Bulletin*, June 26, 1950, pp. 1050–1051.

[2] *Infra*, pp. 1928–1936.

[3] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775) pp. 79–80.

[4] *Supra*, doc. 2.

General with which they are particularly concerned,

3. *Requests* these organs to inform the General Assembly at its sixth session, through the Secretary-General, of any progress achieved through such consideration.[1]

Peace Through Deeds

5. RESOLUTION 380 (V) OF THE GENERAL ASSEMBLY, NOVEMBER 17, 1950 [2]

The General Assembly,

Recognizing the profound desire of all mankind to live in enduring peace and security, and in freedom from fear and want,

Confident that, if all governments faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security can be established,

Condemning the intervention of a State in the internal affairs of another State for the purpose of changing its legally established government by the threat or use of force,

1. *Solemnly* reaffirms that, whatever the weapons used, any aggression, whether committed openly, or by fomenting civil strife in the interest of a foreign Power, or otherwise, is the gravest of all crimes against peace and security throughout the world;

2. *Determines* that for the realization of lasting peace and security it is indispensable:

(1) That prompt united action be taken to meet aggression wherever it arises;

(2) That every nation agree:

(*a*) To accept effective international control of atomic energy, under the United Nations, on the basis already approved by the General Assembly [3] in order to make effective the prohibition of atomic weapons;

(*b*) To strive for the control and elimination, under the United Nations, of all other weapons of mass destruction;

(*c*) To regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction;

(*d*) To reduce to a minimum the diversion for armaments of its human and economic resources and to strive towards the development f the under-developed areas of the world;

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[1] For the Secretary-General's report, see General Assembly, *Official Records, Sixth Session, Supplement No. 15* (A/1902).

[2] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775), pp. 13–14.

[3] See *A Decade of American Foreign Policy*, pp. 1078–1135.

3. *Declares* that these goals can be attained if all the Members o he United Nations demonstrate by their deeds their will to achiev eace.

Uniting for Peace—Collective Measures Committee

ADDRESS BY THE SECRETARY OF STATE BEFORE TH GENERAL ASSEMBLY, SEPTEMBER 20, 1950 (Excerpts)[1]

This meeting of the General Assembly[2] is a meeting of decision.

Before us lies opportunity for action which can save the hope o eace, security, well-being, and justice for generations to come Before us also lies opportunity for drift, for irresolution, for effor eebly made. In this direction is disaster. The choice is ours. I vill be made whether we act or whether we do not act.

The peoples of the world know this. They will eagerly follow ever vord spoken here. Our words will reach them mingled with th ound of the battle now raging in Korea. There, men are fightin nd dying under the banner of the United Nations. Our Charter orn out of the sacrifices of millions in war, is being consecrated ane o peace at the very moment of our meeting. The heroism of thes nen gives us this opportunity to meet and to act. Our task is to b vorthy of them and of that opportunity.

We meet also with full knowledge of the great anxiety whic lutches at the hearts of the people of this earth. Men and wome verywhere are weighted down with fear—fear of war, fear tha nan may be begetting his own destruction.

But man is not a helpless creature who must await an inexorabl ate. It lies within our power to take action which, God willin an avert the catastrophe whose shadow hangs over us. Tha errible responsibility rests upon every man and woman in thi oom. At the end of this meeting each of us must answer to hi onscience on what we have done here.

How have we come to this condition of fear and jeopardy? Th ifetime of many here has seen the rise and fall of empires, the growt of powerful nations, the stirrings of great continents with newbor ope, the conquest of space, and great inventions, both creative an lestructive. We have lived in a century of alternating war an ope.

Now, the foundation of our hope is the United Nations. Fiv ears ago we declared at San Francisco our determination "to sav succeeding generations from the scourge of war,"[1] our faith in fundamental human rights, our belief in justice and social progress. During the years that have intervened, some of us have worked hard to bring this about.

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[1] *The Peace the World Wants* (Department of State publication 3977; 1950) Department of State *Bulletin,* Oct. 2, 1950, pp. 523–529.

[2] i.e., the General Assembly's Fifth Session, Sept. 19–Dec. 15, 1950.

There is no longer any question: Will the United Nations survive? Will the United Nations suffer the fate of the League of Nations? This question has been answered. If by nothing else, it has been answered by United Nations action against aggression in Korea.[2] Blood is thicker than ink.

But a pall of fear has been cast over our hopes and our achievements.

What is the reason for this fear? Why is it that we have been unable to achieve peace and security through the United Nations in these 5 years? Why has there not been the cooperation among the great powers which was to have buttressed the United Nations? Why have we not been able to reach an agreement on the control of atomic energy and the regulation of armaments? What has been the obstacle to a universal system of collective security?

We have been confronted with many and complex problems, but the main obstacle to peace is easy to identify, and there should be no mistake in anyone's mind about it. That obstacle has been created by the policies of the Soviet Government.

We should be very clear in our minds about this obstacle. It is not the rise of the Soviet Union as a strong national power which creates difficulties. It is not the existence of different social and economic systems in the world. Nor is it, I firmly believe, any desire on the part of the Russian people for war. The root of our trouble is to be found in the new imperialism directed by the leaders of the Soviet Union.

To be more explicit, the Soviet Government raises five barriers to peace.

First, Soviet efforts to bring about the collapse of the non-Soviet world, and thereby fulfill a prediction of Soviet theory, have made genuine negotiation very difficult. The honorable representative of Lebanon, Dr. Charles Malik, stated it precisely at our last Assembly when he said: "There can be no greater disagreement than when one wants to eliminate your existence altogether."

Second, the shroud of secrecy which the Soviet leaders have wrapped around the people and the states they control is a great barrier to peace. This has nourished suspicion and misinformation in both directions. It deprives governments of the moderating influence of contact between peoples. It stands in the way of the mutual knowledge and confidence essential to disarmament.

Third, the extent to which the Soviet Union has been building pushed preparation for war. The Soviet Union has forced countrie to rearm for their self-defense.

Fourth, the use by Soviet leaders of the international Communis movement for direct and indirect aggression has been a great sourc of trouble in the world. With words which play upon honest aspirations and grievances the Soviet leaders have manipulated the peopl of other states as pawns of Russian imperialism.

Fifth, the Soviet use of violence to impose its will and its politica system upon other people is a threat to the peace. There is nothin unusual in the fact that those who believe in some particular socia order want to spread it throughout the world. But as one of m predecessors, Secretary Adams, said of the efforts of an earlier Russia ruler, Czar Alexander, to establish the Holy Alliance,[1] the Empero "finds a happy coincidence between the dictates of his conscienc and the interests of his empire."[2] The combination of this international ambition and the Soviet reliance on force and violence—though it be camouflaged as civil war—is a barrier to peacefu relations.

This conduct conflicts with the Charter of the United Nations. I conflicts with the "Essentials of Peace" Resolution passed at our las Assembly.[3] It has created a great and terrible peril for the rest o the world.

Even this conduct has not made war inevitable—we, for our part do not accept the idea that war is inevitable. But it has lengthene the shadow of war. This fact cannot be obscured by propagand which baits the hooks with words of peace and, in doing so, profane the highest aspirations of mankind.

There is only one real way the world can maintain peace an security in the face of this conduct. That is by strengthening it system of collective security. Our best hope of peace lies in ou ability to make absolutely plain to potential aggressors that aggressio cannot succeed. The security of those nations who want peace an the security of the United Nations itself demand the strength t prevent further acts of aggression.

One of the fundamental purposes of the United Nations, as expresse in article 1 of the Charter, is that it shall ". . . take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches o the peace . . ."

The action of the United Nations to put down the aggression whic began on June 25 against the Republic of Korea was exactly th effective collective measure required. It marked a turning point i history, for it showed the way to an enforceable rule of law amon nations.

made. The United Nations must move forward energetically to develop a more adequate system of collective security. If it does not move forward, it will move back.

Article 24 of the Charter gives the Security Council primary responsibility for the maintenance of peace. This is the way it should be. But if the Security Council is not able to act because of the obstructive tactics of a permanent member, the Charter does not leave the United Nations impotent. The obligation of all members to take action to maintain or restore the peace does not disappear because of a veto. The Charter, in articles 10, 11, and 14, also vests in the General Assembly authority and responsibility for matters affecting international peace. The General Assembly can and should organize itself to discharge its responsibility promptly and decisively if the Security Council is prevented from acting.

To this end, the United States delegation is placing before the Assembly a number of recommendations designed to increase the effectiveness of United Nations action against aggression.

This program will include the following proposals:

First, a provision for the calling of an emergency session of the General Assembly upon 24 hours' notice if the Security Council is prevented from acting upon a breach of the peace or an act of aggression.

Second, the establishment by the General Assembly of a security patrol, a peace patrol, to provide immediate and independent observation and reporting from any area in which international conflict threatens, upon the invitation or with the consent of the state visited.

Third, a plan under which each member nation would designate within its national armed forces a United Nations unit or units, to be specially trained and equipped and continuously maintained in readiness for prompt service on behalf of the United Nations. To assist in the organization, training, and equipping of such units, we will suggest that a United Nations military adviser be appointed. Until such time as the forces provided for under article 43 are made available to the United Nations, the availability of these national units will be an important step toward the development of a worldwide security system.

Fourth, the establishment by the General Assembly of a committee to study and report on means which the United Nations might use through collective action—including the use of armed force—to carry out the purposes and principles of the Charter.

The United States delegation shall request that these proposals be added as an item to the agenda. It is the hope of our delegation that the Assembly will act on these and other suggestions which may be offered for the strengthening of our collective security system.

In so doing, we must keep clearly before the world the purpose of our collective security system, so that no one can make any mistake about it.

We need this defensive strength against further aggression in order to pass through this time of tension without catastrophe and to reach means of settling disputes.

This perspective is reflected in the proposals of the Secretary-General for a 20-year program,[1] a perspective from which we car derive the steadiness and patience required of us.

This perspective takes into account the possibility that the Sovie Government may not be inherently and unalterably committed t tanding in the way of peace and that it may some day accept a live and-let-live philosophy.

The Soviet leaders are realists, in some respects at least. As w succeed in building the necessary economic and defensive militar strength, it will become clear to them that the non-Soviet world wi neither collapse nor be dismembered piecemeal. Some modificatio in their aggressive policies may follow if they then recognize that th best interests of the Soviet Union require a cooperative relationshi with the outside world.

Time may have its effect. It is but 33 years since the overthro f the Czarist regime in Russia. This is a short time in history. Lik many other social and political movements before it, the Sovie revolution may change. In so doing, it may rid itself of the policie which now prevent the Soviet Union from living as a good neighbo with the rest of the world.

We have no assurance that this will take place. But, as the Unite Nations strengthens its collective security system, the possibiliti of this change in Soviet policy will increase. If this does not occu the increase in our defensive strength shall be the means of insurin our survival and protecting the essential values of our societies.

But our hope is that a strong collective security system will mak genuine negotiation possible and that this will in turn lead to a co perative peace.

It is the firm belief of the people and the Government of the Unite States that the United Nations will play an increasingly importan role in the world during the period ahead as we try to move safel through the present tensions.

I have already stressed the importance we attach to the Unite Nations as the framework of an effective system of collective securit The steps we take to strengthen our collective security are not onl essential to the survival of the United Nations, but will contribut positively toward its development. The close ties of a commo defense are developing an added cohesion among regional groups This is a significant step toward a closer relationship among nation and is part of the process of growth by which we are moving towar a larger sense of community under the United Nations.

The United States also attaches importance to the universal character of the United Nations, which enables it to serve as a point o contact between the Soviet Union and the rest of the world durin this period of tension.

As our efforts to strengthen the collective security system becom more and more effective, and as tensions begin to ease, we believ of facilitating and encouraging productive negotiation.

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[1] [illegible]

The United States is ready and will always be ready and willing to negotiate with a sincere desire to solve problems. We shall continue to hope that some time negotiation will not be merely an occasion for propaganda.

Solving the many difficult problems in the world must, of course, be a gradual process. It will not be achieved miraculously, overnight, by a sudden dramatic gesture. It will come about step by step. We must seek to solve such problems as we can, and endure the others until they too can be solved.

Among the immediately pressing problems which require the attention of the General Assembly are the aggression against the Republic of Korea, and the problem of Formosa.

In a special and indeed a unique sense, the Republic of Korea is a responsibility of the United Nations. The actions of this Assembly, in its sessions of 1947 and 1948,[1] outlined the United Nations aspirations for its future. Before the aggression of last June, the failure to achieve these purposes had been a matter of deep disappointment and concern. The aggression of June 25 raised a new challenge, which was met by the stout action to which I have already referred.

I have every belief and confidence that this challenge and defiance to the authority of the United Nations will be crushed as it deserves to be, and that thereafter the future of this small and gallant country may be returned where it belongs—to the custody of its own people under the guidance of the United Nations.

From the outset, the United States has given its full support to the actions of this Assembly and of the Security Council. We shall continue to support the decisions of the United Nations as the future course of events unfolds.

We shall do our full part to maintain the impressive unity which has thus far been demonstrated in Korea.

The aggressive attack upon the Republic of Korea created the urgent necessity for the military neutralization of the island of Formosa. The President of the United States, in announcing on June 27 the measures taken to effect this neutralization, emphasized that these measures were to prevent military attack either by mainland forces against Formosa or by forces from Formosa against the mainland.[2] The President made it clear at that time and on several subsequent occasions, that these measures were taken without prejudice to the future political status of Formosa, and that the United States has no territorial ambitions and seeks no special position or privileges with respect to Formosa.

It is the belief of my Government that the problem of Formosa and the nearly 8 million people who inhabit it should not be settled by force or by unilateral action. We believe that the international com-settled by peaceful means.

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[1] See Resolutions 112 (II) of Nov. 14, 1947 (*A Decade of American Foreign Policy*, pp. 677–678) and 195 (III) of Dec. 12, 1948 (General Assembly, *Official Record, Third Session, Part I, Resolutions* (A/810), pp. 25–27).

[2] See *infra*, pp. 2539–2540.

Accordingly, the United States delegation proposes that the General Assembly should direct its attention to the solution of this problem under circumstances in which all concerned and interested parties shall have a full opportunity to express their views, and under which all concerned parties will agree to refrain from the use of force while a peaceful and equitable solution is sought.

We shall therefore request that the question of Formosa be added to the agenda as a matter of special and urgent importance.

Advances which can be made on these specific issues, and the improvement which can result from an effective collective security sys em, may help the United Nations to move in the direction of settlement of further disputes.

We also anticipate that, as our collective security system is strengthened, our efforts to achieve the regulation of armaments may then begin to be productive.

My country reaffirms its support of the United Nations plan fo he international control of atomic energy which would effectively prohibit atomic weapons.[1] We will continue to give sympathetic consideration to any other proposals that would be equally or more effective in accomplishing this purpose. We reaffirm our support o the efforts of the United Nations to work out the basis for effective regulation and reduction of conventional armaments and armed forces.

In talking about disarmament, we must keep one elementary poin absolutely clear: that is, that the heart and core of any real disarmament is confidence that agreements are being carried out by every armed nation. No one nation can have such confidence, unless it has knowledge of the real facts in other countries. Such knowledge can come only from international controls based upon free internationa inspection in every country. There are no safe short-cuts.

Disarmament has been the subject of a great deal of propaganda effort, and this will doubtless continue to be the case. To those who advance various disarmament plans for propaganda purposes, the United Nations has only to ask this simple question: If you mean what you say, are you willing to take the first step? That first step is the acceptance of effective safeguards under the United Nations There can be no other basis for disarmament. Only when every nation is willing to move into an era of open and friendly cooperation in the world community will we begin to get genuine progress toward disarmament.

We believe nevertheless that efforts in this direction should continue, that plans should be made, and negotiations should go on. This subject is of such vital significance that no stone should be left unturned, in the hope that these efforts will someday be successful.

. . . .

I have stressed the work we must do to strengthen and develop our collective security system. This is something none of us wants to to push ahead energetically with this task.

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[1] *A Decade of American Foreign Policy*, p. 1135.

[2] *Ibid.*, pp. 1136–1143, and *infra*, pp. 2739–2745.

Does this mean that all the other things we would like to be doing, the creative, the productive activities, should be put aside for a later time?

Not at all. We must keep pushing ahead at the same time with our efforts to advance human well-being. We must carry on with our war against want, even as we arm against aggression. We must do these two things at the same time, because that is the only way we can keep constantly before us the whole purpose of what we are doing.

Unlike the medieval monks who all through life kept before them a skull as a symbol of death, we must keep before our eyes the living thing we are working for—a better life for all people everywhere.

We have it in our power now, on the basis of the experience of the United Nations and the specialized agencies, and of many member nations, to transform the lives of millions of people, to take them out from under the specter of want, to give people everywhere new hope.

We can meet and we must meet the challenge of human misery, of hunger, poverty, and disease.

As an example of the kind of need to which we must put our efforts, I would like to speak of the problem of the use and ownership of land, a source of misery and suffering to millions.

In many parts of the world, especially in Asia, nations have been seeking to achieve a better distribution of land ownership. Leaders in India and Pakistan, for example, are keenly aware of this problem, and are taking steps to deal with it effectively.

In Japan, as the result of a land-reform program, 3 million farmers—well over half of all the farmers in Japan—have acquired land.

In the Republic of Korea, where previously there had been twice as many tenants as owners of land, a redistribution of farmlands had, by the time of the invasion, changed this ratio so that those who owned land outnumbered those who held their land in tenancy. Plans scheduled for this summer would have made farm owners of 90 percent of the farm families.

In each of these countries, the result of redistribution of this land has been to give the individual farmer an opportunity to work for himself and to improve his status.

These examples I have cited are not slogans or phrases. They suggest what can be done on a cooperative, democratic basis, by processes of peaceful change, which respect the dignity of the individual and his right to self-reliance and a decent livelihood. The result has not been what has been called land-reform in certain other parts of the world—to collectivize the farmer and to place him under the complete control of the government instead of the land-owner.

Equally important is the problem of better use of the land. Control of soil erosion, better seeds, better tools, and better fertilizers are needed in almost every country, but especially in parts of Asia, Africa, the Middle East and Latin America, where the people suffer greatly from inefficient use of their land.

The major responsibility in these fields rests, of course, with govern-

and assist governments in improving land use and productivity. A considerable portion of the funds pledged for the Technical Assistanc Program is already available, to enable us to push ahead with a attack on such problems as these, as well as problems of health education, industrialization and public administration.

A vast opportunity awaits us to bring, by such means as the Unite Nations has been developing, new hope to millions whose most urgen needs are for food, land, and human dignity.

These efforts, and this experience, if concentrated on areas o particular need, can have a combined impact of exciting proportions

The place to begin is Korea.

Just as Korea has become the symbol of resistance against aggression, so can it become also the vibrant symbol of the renewal of life.

A great deal is now being done through the United Nations an under the unified command for the relief of the Korean people.[1] Thi id needs to be vastly increased.

But there is another job which needs to be done, and a greater one As peace is restored in Korea, a tremendous job of reconstruction wil be required.

The devastation which has overtaken Korea is a consequence o the aggression from the North. It is probably unrealistic to expec that those who might have prevented or recalled this aggression wil make available the help needed to repair the damage caused by thi invasion.

The lives lost as the result of this aggression cannot be recalled, bu as the people of Korea set about the task of reestablishing a free an independent nation, as they begin to rebuild their country, th United Nations must be prepared to marshal its resources and it experience to help them.

Here, by focusing on one place of extreme need, the United Nation and the specialized agencies can demonstrate to the world what they have learned about helping people to combat disease, to build hospitals, schools and factories, to train teachers and public administrators, to make the land fertile.[2]

This is a job that can be done. It will take substantial funds an resources, and those are available. Fifty-three governments hav pledged their support to the United Nations defense of Korea. Som of them have been unable to contribute military personnel or equipment. But all of them, I am sure, will want to contribute food, transportation and industrial equipment, construction materials and technicians, to the great task of reconstruction.

My Government is prepared to join with other member nations i making resources and personnel available. When the conflict i Korea is brought to a successful conclusion many of the doctors engineers, and other technicians, and much of the resources now bein used to support the United Nations military action, will be mad available by my Government to a United Nations recovery force

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[1] See *infra*, pp. 2576–2578.

[2] See *infra*, pp. [illegible]

I suggest that the General Assembly have the Economic and Social Council set up a United Nations recovery force to harness this great collective effort.

These measures not only will aid in restoring the people of Korea quickly to a condition of peace and independence, but they will demonstrate to the people of the world the creative and productive possibilities at the command of the United Nations.

Out of the ashes of destruction, the United Nations can help the Korean people to create a society which will have lessons in it for other people everywhere. What the United Nations will be able to do here can help set a pattern of coordinated economic and social action in other places, where the need is for development, rather than rehabilitation.

We look forward to a time when members of the United Nations will be able to devote their energies and their resources to productive and creative activities, to the advancement of human well-being, rather than to armaments.

When the time comes that a universal collective security system enables nations to reduce their burden of armaments, we hope that other nations will join us in pledging a good part of the amount saved to such productive United Nations activities as I have described.

A world such as this, in which nations without exception work together for the well-being of all mankind, seems a very distant goal in these days of peril, but our faith in its ultimate realization illumines all that we do now.

In building a more secure and prosperous world we must never lose sight of the basic motivation of our effort: the inherent worth of the individual human person. Our aim is to create a world in which each human being shall have the opportunity to fulfill his creative possibilities in harmony with all.

It is our hope that the relaxation in international tension, which we seek, will be accompanied by a great restoration of human liberty, where it is now lacking, and progress everywhere toward the "larger freedom."

But the safeguarding of human freedom is not a distant goal, nor a project for the future. It is a constant, immediate, and urgent concern of the United Nations.

The United Nations should keep forever in mind the objectives set forth in the universal declaration of human rights,[1] and we should press forward with the work of our distinguished Human Rights Commission.[2] While we are engaged in creating conditions of real peace in the world, we must always go forward under the banner of liberty. Our faith and our strength are rooted in free institutions and the rights of man

The peace the world wants must be free from fear—the fear of invasion, the fear of subversion, the fear of the knock on the door a midnight.

The peace the world wants must be free from want, a peace in whicl neighbors help each other, and together build a better life.

The peace the world wants must be a moral peace, so that the spiri of man may be free, and the barriers between the hearts and mind of men may drop away and leave men free to unite in brotherhood

This is the task before us.

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7. STATEMENT BY THE UNITED STATES REPRESENTATIVE BEFORE THE POLITICAL AND SECURITY COMMITTEE OI THE GENERAL ASSEMBLY, OCTOBER 13, 1950 [2]

I know that I speak for all of the sponsors of the seven-power draf resolution [3] when I express gratification at the response to our proposals. When we introduced that proposal, we had hoped and though that our resolution had expressed the manifest desire of all the people that we should really do something to create what our Charter refer to as "effective collective measures." We now feel that the hop with respect to the strong world-wide demand is realized becaus the general debate, which is now drawing to a close, shows that with very few exceptions, all the representatives want the peace to b protected by something which is more solid than pious words.

The general debate here has indeed, to a very large extent, take for granted the desirability of the goals that we seek through th seven-power draft resolution and, to a considerable extent, ha revolved around the question of whether this General Assembly ha the power, consistent with the Charter, to recommend the creatio and, if need be, the use of armed forces as United Nations units.

I will not go into the legal questions which involve an interpretatio of the language of the Charter, not because that is not important but because it has already been dealt with so thoroughly by man able analysts. They have shown conclusively the constitutionalit of what we propose. They showed that, while obviously the Security Council has the primary responsibility and alone has th power to act in an authoritative way, to impose economic, military and diplomatic sanctions as contemplated by chapter VII, the Genera Assembly, nevertheless, has broad residual power under article 1 and other articles to recommend, either to the members, or to th Security Council with respect to "any matters within the scope o the present Charter" subject only to the one qualification that th Security Council is not dealing with the matter at the moment. That

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[1] John Foster Dulles.

[2] Department of State *Bulletin*, Oct. 30, 1950, pp. 687–691.

[3] Presented to the committee, Oct. 13, 1950, by Canada, France, the Philippines Turkey, the United Kingdom, the United States, and Uruguay; U.N. doc. A/C.1/57 *ibid.*, Oct. 23, 1950, pp. 655–656).

respected and which I am sure it will always respect.

The legal arguments have been developed so fully that I shall not repeat them. I shall, however, attempt to reinforce them by a few rather practical observations. In my opening remarks, I recalled that at San Francisco there was a bitter and final controversy with reference to the authority of the General Assembly. It revolved around this article 10. The result, as represented by the present language, was until the last moment, desperately resisted by the Soviet Union. As I think back to that time, I wonder why it was that the Soviet Union delegation held out until the last moment and indeed threatened not to sign the Charter at all because article 10 was so broad. If, in fact, article 10 only means what Mr. Vyshinsky says it means, if it means that this General Assembly cannot really do anything of any consequence, if it means that all it can do is to utter fine words and, that it cannot do anything with regard to action of consequence, why did we have this great struggle at San Francisco?

I know why we had that struggle at San Francisco because I was there and took part in the negotiations, and I know that struggle took place because the Soviet Union then realized that the broad scope, given to the Assembly by article 10, meant that in reality their veto in the Security Council would not necessarily be the final word in behalf of this organization. That is the explanation, and the only reasonable and intelligent explanation, that can be given regarding the debate that then took place on article 10. I know, of my own knowledge, that that was the reason for it.

I recall that at San Francisco on June 21, 1945, the day following the final concession by the Soviet Union with reference to the drafting of article 10, the chairman of the Australian delegation, speaking before the Second Commission of the Conference, said of the then finally agreed language of article 10:

> . . . there is no limit on the power of recommendations save the one mentioned in the text, and the Assembly may make recommendations on these matters to the United Nations. Of course those recommendations will have no operative effect in any country and questions of procedure will have subsequently to be determined. . . .
>
> Mr. President, I am not going to attempt any definition of so wide a Charter as this Assembly will possess. In fact, Mr. President, in my opinion, it is so wide that if I state how wide it is, there may be some attempt to re-open the question.[1]

The Soviet Union representatives, then sitting in that Commission, heard those words and they then made no attempt to reopen the question, but they do so now, after 5 years. Well, they are 5 years too late. For the clear and then agreed wording of article 10 has been accepted and has been reflected in many acts of the Assembly.

On more than one occasion, we have here recommended the taking by the members of measures which the Security Council alone had the already been referred to in the course of the general debate, and I shall refer only to one of those which has been mentioned before namely, the case of Franco Spain.

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[1] *The United Nations Conference on International Organization, San Francisco, California, April 25 to June 26, 1945: Selected Documents* (Department of State publication 2490; 1946), pp. 716–717.

I recall, that in April 1946, the Polish delegation brought to the Security Council a complaint against the activities of Franco Spain on the ground that the regime endangered international peace and security.[1] The Polish delegation then demanded that the Security Council vote to require the members of the United Nations to invoke one of the sanctions mentioned in chapter VII, namely, "the sever-ance of diplomatic relations." That proposal failed in the Security Council, and then what happened. Immediately the Polish delega-tion brought its proposal to the General Assembly, and asked the Assembly to recommend the imposition of the sanctions that the Security Council had refused to command. It introduced the pro-posal that the General Assembly should recommend to the members that they should break off diplomatic relations with the Spanish Government. The delegation of the Byelorussian S.S.R. went a step further, and urged that the Assembly should recommend to its members that they impose economic sanctions upon the Franco regime.

Both of those proposals were supported wholeheartedly and vigor-ously by the representative of the Soviet Union. I recall that Mr Gromyko then said to us in reference to these proposals, particularly the Polish proposal:

> It had been claimed in the Security Council that the General Assembly should take action, but now it was being stated in the General Assembly that the matte was within the competence of the Security Council.

Then Mr. Gromyko went on to say:

> The General Assembly had the power and the right to consider and take a de-cision on this problem, and a policy of inaction would have grave consequences.

Only a few days ago, the Soviet Union brought to this Assembly although the Security Council is concurrently sitting right across th hall, an agenda item entitled "American aggression against China." The explanatory memorandum, document A/1382, refers to a serie of alleged acts which it said constitute a serious threat to internationa peace and security and call for immediate action by the United Nations.

That is, as I say, a proposal brought by the Soviet Union to th General Assembly when the Security Council is sitting a few fee away across the hall. Apparently, it is the view of the Soviet Union delegation that the General Assembly does have power to recommen action by member states when that action is in the interests of th as is the case with the action now under discussion, might be inconvenient to the Soviet Union. If we accepted such an interpretation of the Charter, I think that we should, indeed, go back to kindergarten.

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[1] For a summary of the Spanish case, see *The United States and the Unite Nations: Report by the President to the Congress for the Year 1946* (Departmen of State publication 2735; 1947), pp. 37–38.

[2] Statement of Dec. 4, 1946; General Assembly, *Official Records, First Session Second Part, First Committee, Summary Records of Meetings, 2 November–1 December 1946*, p. 267.

Mr. Vyshinsky went on to say that our proposals were dangerous because they did not reflect the necessity for unanimity between the permanent members of the Security Council. That unanimity, he said, is the "cornerstone," the "foundation," of the United Nations.[1] Well, really! Is it the cornerstone, the foundation of this United Nations that there shall be unanimity among the permanent members of the Security Council? Of course, it is one of the things we want and one of the things that we hope for, but to say that it is the foundation of this organization is, indeed, an extraordinary statement, and it means that if that is the foundation of this organization, then, unhappily, the United Nations has no foundation at all, because, regrettably, there is not today that unanimity.

I do not know how they do things in the Soviet Union. Sometimes it seems that things are somewhat inside-out there. I know that with us the practice is to start with the foundation and then build on it. And where do I find in the Charter this rule, this foundation of the United Nations? I look to the Charter. I begin at the preamble, I read on through articles, 1, 2, 3, 4, 5, 6, and 7, and finally I reach the middle and come to article 27. Where is it in article 27? Is it in paragraph 1? No. Is it in paragraph 2? No. Tucked away in paragraph 3 of article 27 is a provision which says that on substantive matters action of the Security Council requires the concurring votes of the five permanent members. There, tucked away in the middle of the Charter, is what, to the Soviet Union, is the foundation of the United Nations. As I say, I do not understand this inside-out, upside-down process. I find the foundation of the United Nations in its opening paragraph, in its beginning, and in its preamble which expresses the determination of the peoples of the world—

> to unite our strength to maintain international peace and security, and
> to ensure . . . that armed forces shall not be used, save in the common interest. . . .

I say that the foundation of this United Nations is not found in the rule of the big five but in the determination of the peoples of the world expressed—and so eloquently expressed—in the preamble to the Charter of our organization. That determination of the peoples is our foundation. It is the determination that still persists, and the determination which the members of the United Nations have the duty to implement through the Charter, which gives them the right to supplement it through recommendations which, although not self-operating as are those taken by the Security Council, are nevertheless effective if, as we do not for a moment doubt, they respond to the will of the peoples whose determination is expressed here and is the true foundation of this organization.

Mr. Vyshinsky says that our proposals "would explode and crush the Charter." I say that the views expressed by him "would explod and crush the peace." They would be notice to every potentia aggressor that this organization is impotent to create a collectiv resistance to aggression, even by suggesting a voluntary creation an coordination of armed forces which is obviously desired by the people of the world.

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[1] Statement of Oct. 10, 1950; New York Times, Oct. 11, 1950.

I do not doubt that there are those among us and elsewhere wh will be struck by the fact that the only strong opponent of our proposals for collective resistance to aggression is the great power whic in recent years has been largely aggrandizing the area of its domain And some will at least wonder if that coincidence is purely coincidental

A second and relatively minor legal argument relates to the questio of whether this Assembly can decide now to meet in emergenc session in the event of a future contingency that we defined, namely failure of the Security Council to deal with a breach of the peac coupled with the judgment of seven members of the Security Counci that such an emergency meeting is desirable.

It is said that the suggestion that we should agree now, if tha contingency happens, is illegal because it is said in article 20 tha there shall be special sessions—

> . . . at the request of the Security Council or of a majority of the Member of the United Nations.

And it is said that as far as the Security Council is concerned tha that requires not just the vote, the action of seven members, but th concurring vote of the five permanent members so that such a cal is subject to veto.

That is again an illustration of how tightly some of the permanen members would pull the noose of the veto that would strangle us Article 27, which treats of the veto, says that:

> Decisions of the Security Council on procedural matters shall be made by a affirmative vote of seven members.

That is, it means any seven members. And what are procedura matters? I would assume that the Charter was a guide to that.

What is the caption in the Charter before article 20? This word i "Procedure." It is indeed strange, concerning the veto, to conten that although article 27 says that any seven members can act o procedural matters, and although the Charter itself labels article 2 dealing with the calling of special sessions of the General Assembly as procedural, that, nevertheless, is again vetoable.

Most of us here recall that in the spring of 1949 the General Assembly, by a vote of 43–6, with 2 abstentions, expressed, at least as fa as we were concerned, that decisions in this respect should be deeme we want, by an appropriate vote, we can decide and decide now to meet on any future contingency we name. Article 20, to be sure, states certain cases where we can be compelled by the Security Council to meet whether we want to or not. The Security Council by a vote of seven members can compel us to meet. But we are not talking about meeting under compulsion. We are talking about meeting when we want to meet, and surely we have the right to decide when we want to meet, and surely the Security Council has no right to veto us. If we decide now that it is important that the General Assembly should meet in special emergency session, in the event of a breach of the peace, as found by certain persons, surely it is right for us now and lawful for us now to decide to meet then. We would be meeting pursuant to our own volition and pursuant to our own vote, in the event of a contingency, which may come about and which we foresee if it does happen, will be grave enough so that there will be held instantly a special emergency meeting of the General Assembly.

Those are legal questions that have been argued, the question of whether article 10 means what it says and, the question of whether we have the right to determine for ourselves if we will meet in the event of a defined future contingency.

I turn now to matters of substance, not dealing with them in detail, because the occasion for that will come later. I merely say now that a number of amendments have been proposed and considerable elements of those amendments are looked upon by the sponsors as constructive, helpful, and within the spirit of what we have in mind, and are acceptable to us. We hope to prepare promptly and to submit to the First Committee a revised draft resolution which will incorporate certain of the proposals that have been made here. I hope that they will, among other things, satisfy certain doubts that have been raised with reference to the precise role of the Collective Measures Committee which is dealt with in part D of our proposal.

I should say here, in case there is any doubt, that, of course, it was never at all in the minds of the sponsors that this Committee would have the task either of surveying natural resources, prying into military secrets, or engaging in secret military planning. If we failed in our drafting to make that point clear, we welcome the opportunity to clarify our views in that respect and to remove any doubts that may exist in the minds of any.

Our revised draft resolution will also take account of what, I think, is a very legitimate point made here with regard to safeguarding the constitutional procedures of some of the member states. That concern was safeguarded by article 48 of the Charter, which dealt with action, and we agree that it should also be safeguarded by our draft resolution.

As I said yesterday, the sponsors are in the process of agreeing with the delegation of Chile, so that there will be no competition, but rather cooperation between the two resolutions.

There are other amendments which, after careful study, the sponsors do not feel that they can accept, and these will no doubt have to be differences of opinion can be and ought to be resolved.

One of the proposals submitted during the course of the genera debate is the Soviet proposal, document A/C.1/579, which, I gather is a substitute for the portions of the seven-power resolution which the Soviet Union rejects. It calls for the—

> rapid application of articles 43, 45, 46, and 47 of the Charter of the Unite Nations relating to the placing of armed forces at the disposal of the Securit Council by the States Members of the United Nations and the effective operatio of the Military Staff Committee.[1]

Mr. Vyshinsky, in his address introducing those proposals said:

> We have to implement Chapter VII of the Charter and we have to see to it tha the Military Staff Committee shall finally buckle down to work and tackle thi question which will determine the broad lines of the special military agreement to be concluded under Article 43.[2]

Well, when Mr. Vyshinsky demanded that the Military Staff Committee should buckle down to this problem, there had then been 17 consecutive meetings of the Military Staff Committee, all of whic were conspicuous by the absence of the representative of the Sovie Union. The next day, after this new Soviet Union proposal wa introduced, another meeting of the Military Staff Committee was held Then, at least, we thought there would be a representative of the Soviet Union present. It was, however, the same story. For the eighteenth consecutive time, following the eloquent appeal of Mr Vyshinsky, following the introduction of his draft resolution that the Military Staff Committee should buckle down to work, the seat of the Soviet Union remained vacant. Well, of course, if we want satisfaction, we can go back, no doubt, to those words which still resoun in our ears, the eloquent words of Mr. Vyshinsky, "let the Military Staff Committee buckle down to this task," which words will resoun and resound and may satisfy us. But really, are we bobby-soxer who swoon when our modern Frank Sinatra croons?

As we pass from this general debate to a detailed section-by-sectio study of the proposals, I hope we will not, in discussing the details lose sight of the great purpose that underlies the pending seven-powe resolution,[3] a purpose which has so often been so eloquently expresse in the course of the general debate. The action which is contemplate is indeed momentous. It may determine, perhaps decisively an finally for our generation, whether or not the nations of the worl really want an effective, as against a paper, system of collective resistance to aggression. Much, indeed, will depend upon what we d here.

We are indeed engaged in a serious affair. I am confident that the detailed discussion will confirm what the general debate has so clearl shown, namely, that the overwhelming majority of our members d be brought into operation only as the Security Council or, if it fails, as this body, reflecting world opinion, judges to be right. The goal is security based on collective strength and subject to law. The proposals before the Committee, while not perfect, nevertheless, do seem to the sponsors to be the closest thing we can realistically get at the present time to achieve the result of collective strength under law.

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[1] The functions of the Military Staff Committee are described in article 47 o the U.N. Charter; *supra*, doc. 1.

[2] Statement of Oct. 10, 1950; New York *Times*, Oct. 11, 1950.

[3] Draft resolution of Oct. 13, 1950; Department of State *Bulletin*, Oct. 23, 1950 pp. 655–656.

I hope that the representatives will never forget in the course of this discussion the tremendous significance of creating a collective force, drawn not just from the great powers but also from the small powers, so that it represents all of our membership, and subjecting that force, which is drawn from the great, as well as the small, to the common, representative, moral judgments that are reflected by the United Nations. Never before, in the history of the world, has there been anything like that.

We have seen, over the past, a succession of military alliances primarily made by the great powers, and in every case the use of that strength was directed primarily by the self-interest of the great powers who made the greater contribution. But never have we had in history what is proposed here: a collective force in which some may contribute more than others but where the use of that force is determined not by individual states or by individual powers but by the collective judgment of mankind as represented by the appropriate organs of this organization.

There are some who profess to fear the power of the United States. We remind any such representatives that the United States placed its power in Korea at the service and subject to the will of the United Nations, and the purpose of this draft resolution is to assure, even more fully for the future, that armed force will be available for the common interest, but, in the words of our Charter,

> shall not be used, save in the common interest.

Two other so-called great powers, the United Kingdom, and France, are among the cosponsors of this historic proposal to put the strength, even of the great, under the collective judgment of the United Nations. What are the alternatives before us? If, at this time of admitted peril, the United Nations in this General Assembly hestitates to recommend ways whereby its members can unite their strength to maintain international peace and security, what will happen? We all know what will happen. There will inevitably be increased dependence on military alliances, the strength of which will not be subject to law or to any such representative universal body as this United Nations. There can, under those circumstances, be no comparable assurance that aggregations of power outside this organization will be as responsive to the over-all welfare of the peoples of the world as can be assured by this organization. That is why the rejection of these proposals would, in my opinion, have grave consequences, and, in dealing with them, we assume a grave responsibility. If, as I confidently believe, we accept these proposals, we shall be opening to all mankind a new vista of hope.

NOVEMBER 3, 1950 [1]

A

The General Assembly,

Recognizing that the first two stated Purposes of the United Nation are:

> "To maintain international peace and security, and to tha end: to take effective collective measures for the prevention an removal of threats to the peace, and for the suppression of act of aggression or other breaches of the peace, and to bring abou by peaceful means, and in conformity with the principles o justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach o the peace", and
>
> "To develop friendly relations among nations based on respec for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universa peace",[2]

Reaffirming that it remains the primary duty of all Members of th United Nations, when involved in an international dispute, to see settlement of such a dispute by peaceful means through the procedure laid down in Chapter VI of the Charter, and recalling the successfu achievements of the United Nations in this regard on a number o previous occasions,

Finding that international tension exists on a dangerous scale,

Recalling its resolution 290 (IV) entitled "Essentials of peace",[3] which states that disregard of the Principles of the Charter of th United Nations is primarily responsible for the continuance of international tension, and desiring to contribute further to the objective of that resolution,

Reaffirming the importance of the exercise by the Security Counci of its primary responsibility for the maintenance of internationa peace and security, and the duty of the permanent members to see unanimity and to exercise restraint in the use of the veto,

Reaffirming that the initiative in negotiating the agreements fo armed forces provided for in Article 43 of the Charter belongs to th Security Council, and desiring to ensure that, pending the conclusio of such agreements, the United Nations has at its disposal means fo maintaining international peace and security,

Conscious that failure of the Security Council to discharge it responsibilities on behalf of all the Member States, particularly thos responsibilities referred to in the two preceding paragraphs, does no relieve Member States of their obligations or the United Nations o and security,

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[1] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775 pp. 10–12.

[2] Preamble to the charter.

[3] Resolution of Dec. 1, 1949; *A Decade of American Foreign Policy*, pp. 951–952

Recognizing in particular that such failure does not de
General Assembly of its rights or relieve it of its responsibili
the Charter in regard to the maintenance of international p
security,

Recognizing that discharge by the General Assembly of it
sibilities in these respects calls for possibilities of observati
would ascertain the facts and expose aggressors; for the ex
armed forces which could be used collectively; and for the p
of timely recommendation by the General Assembly to Me
the United Nations for collective action which, to be effectiv
be prompt,

A

1. *Resolves* that if the Security Council, because of lack of u
of the permanent members, fails to exercise its primary resp
for the maintenance of international peace and security in
where there appears to be a threat to the peace, breach of t
or act of aggression, the General Assembly shall consider th
immediately with a view to making appropriate recommend
Members for collective measures, including in the case of a
the peace or act of aggression the use of armed force when n
to maintain or restore international peace and security.
session at the time, the General Assembly may meet in e
special session within twenty-four hours of the request theref
emergency special session shall be called if requested by the
Council on the vote of any seven members, or by a major
Members of the United Nations;

2. *Adopts* for this purpose the amendments to its rules of
set forth in the annex to the present resolution;

B

3. *Establishes* a Peace Observation Commission which
calendar years 1951 and 1952, shall be composed of fourteen
namely: China, Colombia, Czechoslovakia, France, Ind
Israel, New Zealand, Pakistan, Sweden, the Union of Sovie
Republics, the United Kingdom of Great Britain and Nor
land, the United States of America and Uruguay, and wh
observe and report on the situation in any area where th
international tension the continuance of which is likely to
the maintenance of international peace and security.
invitation or with the consent of the State into whose ter
Commission would go, the General Assembly, or the Inte
mittee when the Assembly is not in session, may utilize the
sion if the Security Council is not exercising the functions a
it by the Charter with respect to the matter in question.
to utilize the Commission shall be made on the affirmativ
two-thirds of the members present and voting. The Securit
may also utilize the Commission in accordance with its
under the Charter;

to appoint sub-commissions and to utilize the services of observers to assist it in the performance of its functions;

5. *Recommends* to all governments and authorities that they co-operate with the Commission and assist it in the performance of its functions;

6. *Requests* the Secretary-General to provide the necessary staff and facilities, utilizing, where directed by the Commission, the United Nations Panel of Field Observers envisaged in General Assembly resolution 297 B (IV);[1]

C

7. *Invites* each Member of the United Nations to survey its resources in order to determine the nature and scope of the assistance it may be in a position to render in support of any recommendations of the Security Council or of the General Assembly for the restoration of international peace and security;

8. *Recommends* to the States Members of the United Nations that each Member maintain within its national armed forces elements so trained, organized and equipped that they could promptly be made available, in accordance with its constitutional processes, for service as a United Nations unit or units, upon recommendation by the Security Council or the General Assembly, without prejudice to the use of such elements in exercise of the right of individual or collective self-defence recognized in Article 51 of the Charter;

9. *Invites* the Members of the United Nations to inform the Collective Measures Committee provided for in paragraph 11 as soon as possible of the measures taken in implementation of the preceding paragraph;

10. *Requests* the Secretary-General to appoint, with the approval of the Committee provided for in paragraph 11, a panel of military experts who could be made available, on request, to Member States wishing to obtain technical advice regarding the organization, training, and equipment for prompt service as United Nations units of the elements referred to in paragraph 8;

D

11. *Establishes* a Collective Measures Committee consisting o fourteen Members, namely: Australia, Belgium, Brazil, Burma Canada, Egypt, France, Mexico, Philippines, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia, and directs the Committee in consultation with the Secretary-General and with such Membe States as the Committee finds appropriate, to study and make a report to the Security Council and the General Assembly, not late than 1 September 1951, on methods, including those in section C o the present resolution, which might be used to maintain and strengthen international peace and security in accordance with the Purposes and

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[1] Resolution of Nov. 22, 1949; General Assembly, *Official Records, Fourth Ses sion, Resolutions* (A/1251), pp. 21-22.

and regional arrangements (Articles 51 and 52 of the Charter);

12. *Recommends* to all Member States that they cooperate with the Committee and assist it in the performance of its functions;

13. *Requests* the Secretary-General to furnish the staff and facilities necessary for the effective accomplishment of the purposes set forth in sections C and D of the present resolution;

E

14. *Is fully conscious* that, in adopting the proposals set forth above, enduring peace will not be secured solely by collective security arrangements against breaches of international peace and acts of aggression, but that a genuine and lasting peace depends also upon the observance of all the Principles and Purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the Security Council, the General Assembly and other principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for and observance of human rights and fundamental freedoms for all and on the establishment and maintenance of conditions of economic and social well-being in all countries; and accordingly

15. *Urges* Member States to respect fully, and to intensify, joint action, in co-operation with the United Nations, to develop and stimulate universal respect for and observance of human rights and fundamental freedoms, and to intensify individual and collective efforts to achieve conditions of economic stability and social progress, particularly through the development of under-developed countries and areas.

ANNEX

The rules of procedure of the General Assembly [1] are amended in the following respects:

1. The present text of rule 8 shall become paragraph (*a*) of that rule, and a new paragraph (*b*) shall be added to read as follows:

> "Emergency special sessions pursuant to resolution 377 A (V) shall be convened within twenty-four hours of the receipt by the Secretary-General of a request for such a session from the Security Council, on the vote of any seven members thereof, or of a request from a majority of the Members of the United Nations expressed by vote in the Interim Committee or otherwise, or of the concurrence of a majority of Members as provided in rule 9."

2. The present text of rule 9 shall become paragraph (*a*) of that rule and a new paragraph (*b*) shall be added to read as follows:

> "This rule shall apply also to a request by any Member for an emergency special session pursuant to resolution 377 A (V). In

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[1] See United Nations, *Rules of Procedure of the General Assembly* (A/520/Rev. 3), N. Y., 1954. This edition includes amendments adopted by the General Assembly up to and including the eighth session (1953).

such a case the Secretary-General shall communicate with othe Members by the most expeditious means of communicatio available."

3. Rule 10 is amended by adding at the end thereof the following

"... In the case of an emergency special session convened pursuant to rule 8 (*b*), the Secretary-General shall notify the Member of the United Nations at least twelve hours in advance of the opening of the session."

4. Rule 16 is amended by adding at the end thereof the following

"... The provisional agenda of an emergency special sessio shall be communicated to the Members of the United Nations simultaneously with the communication summoning the session."

5. Rule 19 is amended by adding at the end thereof the following

"... During an emergency special session additional items concerning the matters dealt with in resolution 377 A (V) may be adde to the agenda by a two-thirds majority of the Members present an voting."

6. There is added a new rule to precede rule 65 to read as follows

"Notwithstanding the provisions of any other rule and unless th General Assembly decides otherwise, the Assembly, in case of a emergency special session, shall convene in plenary session only an proceed directly to consider the item proposed for consideration i the request for the holding of the session, without previous referenc to the General Committee or to any other Committee; the President and Vice-Presidents for such emergency special sessions shal be, respectively, the Chairman of those delegations from whic were elected the President and Vice-Presidents of the previou session."

B

For the purpose of maintaining international peace and security in accordance with the Charter of the United Nations, and, in particular, with Chapters V, VI and VII of the Charter,

The General Assembly

Recommends to the Security Council:

That it should take the necessary steps to ensure that the actio provided for under the Charter is taken with respect to threats to th

Assembly from fulfilling its functions under resolution 377 A (V).

C

The General Assembly,

Recognizing that the primary function of the United Nations Organization is to maintain and promote peace, security and justice among all nations,

Recognizing the responsibility of all Member States to promote the cause of international peace in accordance with their obligations as provided in the Charter,

Recognizing that the Charter charges the Security Council with the primary responsibility for maintaining international peace and security,

Reaffirming the importance of unanimity among the permanent members of the Security Council on all problems which are likely to threaten world peace,

Recalling General Assembly resolution 190 (III) entitled "Appeal to the Great Powers to renew their efforts to compose their differences and establish a lasting peace",[1]

Recommends to the permanent members of the Security Council that:

(*a*) They meet and discuss, collectively or otherwise, and, if necessary, with other States concerned, all problems which are likely to threaten international peace and hamper the activities of the United Nations, with a view to their resolving fundamental differences and reaching agreement in accordance with the spirit and letter of the Charter;

(*b*) They advise the General Assembly and, when it is not in session, the Members of the United Nations, as soon as appropriate, of the results of their consultations.

9. LETTER FROM THE ACTING UNITED STATES REPRESENTATIVE AT THE UNITED NATIONS[2] TO THE SECRETARY-GENERAL OF THE UNITED NATIONS[3] REGARDING UNITED STATES ARMED FORCES UNDER RESOLUTION 377 (V), JUNE 8, 1951[4]

I have the honor to refer to paragraph 9 of Resolution 377 (V), adopted by the General Assembly on 3 November 1950,[5] and in accordance therewith to request you to advise the Collective Measures

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[1] Resolution of Nov. 3, 1948; General Assembly, *Official Records, Third Session, Part I, Resolutions* (A/810), pp. 15–16.

[2] Ernest A. Gross.

[3] Trygve Lie.

[4] U.S. Mission to the U.N. press release 1214, June 8, 1951.

[5] *Supra.*

Committee of the measures taken by my Government in implementation of paragraph 8 of that Resolution.

1. At the present time, elements of the National Armed Forces o the United States are serving under the Unified Command in Korea pursuant to the recommendations of the Security Council and th General Assembly. A general description of these elements as now constituted follows:

Ground Forces: Three Army Corps and one Marine Division, with supporting elements.
Naval Forces: A fast Carrier Task Group with a blockade and escort force, an amphibious force, reconnaissance and anti-submarine warfare units, and supporting ships.
Air Forces: One Tactical Air Force, one Bombardment Command nd one Combat Cargo Command, all with supporting elements.

The United States Government regards the maintenance of these forces as fulfillment at this time of the purposes of the recommendations of the General Assembly in the Uniting for Peace Resolution After termination of hostilities in Korea and after the United States Armed Forces now opposing aggression in Korea have been withrawn, the extent to which the United States will maintain armed forces which could be made available for United Nations service wil e reviewed.

2. The United States is maintaining elements of its National Armed Forces in Europe, shortly to include the equivalent of si Army Divisions, and Naval and Air Force elements, in furtherance of the North Atlantic Treaty[1] and as a part of the efforts of th parties to the Treaty for Collective Defense and for the preservation of Peace and Security. The Treaty by its terms comes within th framework of the Charter of the United Nations, and the United States Forces maintained in furtherance of the Treaty could, in appropriate circumstances, pursuant to the Treaty and the Charter and in accordance with due constitutional process, participate in collective military measures to maintain or restore Peace and Security n the North Atlantic Area in support of United Nations action.

3. The United States will continue to keep this matter under constant review in the light of changing circumstances and in furtherance of the policy of the United Nations to build up an effective collective security system.

Accept, Excellency, the renewed assurances of my highest conideration.

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[1] *Infra*, pp. 812–815.

CONSIDERATION OF THE COLLECTIVE MEASURES COMMITTEE, AUGUST 4, 1954[1]

1. In considering what the Collective Measures Committee might usefully do in furtherance of the objective of strengthening the capability of the United Nations to maintain international peace and security, it was realized that considerable progress has already been made by the Committee. In the two previous reports[2] the Collective Measures Committee sought to analyze the hard lessons of the Korean experience in the hope that the United Nations can be developed into a more effective agency for resisting aggression collectively. A wide range of political, economic and military collective measures were considered by the Committee to be practicable. The studies made by the Committee, which are now available "on the shelf" of the United Nations, may assist in reducing in a future collective action the amount of improvisation necessary in organizing the collective effort in Korea. Noteworthy also are the efforts made by the Collective Measures Committee to stimulate preparations on the part of all states enabling them to participate and to support future United Nations collective resistance against aggression.

2. It may well be that at some time the Collective Measures Committee should carry forward some of its studies or undertake additional ones in order to keep pace with the new developments which may occur in the field of collective security. At this juncture we believe that an affirmation of certain important principles of particular relevance in the execution of collective measures, by the Committee and the General Assembly, will help to develop the will and determination among states which is essential if any future United Nations collective measures which are undertaken are to be effectively and equitably applied.

3. Accordingly, the following principles of collective security are submitted for the consideration of the Collective Measures Committee in the hope that their endorsement by the Committee and the General Assembly may contribute in some measure to the strengthening of the concept of collective security under the aegis of the United Nations.

> 1. In principle, when the United Nations undertakes action against aggression, the greatest possible number of States should make effective military contributions to the collective effort, in accordance with their individual capacities and resources.
> 2. While it is essential that United Nations collective military action be supported by every effective type of assistance, a primary

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[1] U.N. doc. A/AC.43/L.3, Aug. 4, 1954.

[2] See General Assembly, *Official Records, Sixth Session, Supplement No. 13* (A/1891), and *ibid., Seventh Session, Supplement No. 17* (A/2215). For selected documentation on the activities of the committee, 1951–1954, see *Review of the United Nations Charter: A Collection of Documents* (S. Doc. No. 87, 83d Cong., 2d sess.), pp. 606–676.

military forces.

3. To this end, States supporting United Nations collective measures should seek to maximize effective military contributions not only by their own contribution of forces but also by helping to provide logistic support to States desiring to participate but unable to provide for the equipment, training of or supplying of their own forces.

4. In the event of collective measures undertaken by the United Nations against aggression, States should endeavour to make available ancillary support for the benefit of forces of countries participating n such measures. Such ancillary support should include, where posssible, necessary rights of passage through or over territory of the country concerned and related rights and facilities.

5. Collective self-defence and regional arrangements or agencies constitute an important part of the United Nations collective security system. When action is taken against aggression consistent with and n support of the Charter by collective defence agencies, it is importan that all appropriate steps be taken in the United Nations to provide support for such collective action.

6. The importance of collective economic and financial measures against aggression for the purpose of assisting the victim and co-operating States is reaffirmed. The availability to the Security Council and the General Assembly of the arms embargo list and the list of strategic items prepared by the Collective Measures Committee s noted as well as its utility in expediting the application of any future embargo which the United Nations may decide upon or recommend.

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11. THIRD REPORT OF THE COLLECTIVE MEASURES COMMITTEE, AUGUST 27, 1954 [1]

Introduction

The Collective Measures Committee has the honour to submi herewith its third report to the Security Council and to the Genera Assembly.

1. The Committee was established by General Assembly resolution 377 A (V) of 3 November 1950,[2] and its work was continued by resolution 503 A (VI) of 12 January 1952.[3]

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[1] U.N. docs. A/2713 and (S/3283), Aug. 30, 1954; see also Department of Stat *Bulletin,* Nov. 22, 1954, pp. 781–783. The report of the Committee was approved by the General Assembly in its Res. 809 (IX), adopted Nov. 4, 1954 (Genera Assembly, *Official Records, Ninth Session, Supplement No. 21* (A/2890), p. 4), and the Committee was instructed by this resolution to "remain in a position to pursu such further studies as it may deem desirable."

[2] *Supra,* doc. 8.

[3] General Assembly, *Official Records, Sixth Session, Supplement No. 20* (A/2119)

of its activities are set out in General Assembly resolution 703 (VII) of 17 March 1953,[1] as follows:

> "2. *Requests* the Collective Measures Committee to continue its work until the ninth session of the General Assembly, as directed in paragraph 4 below, for the maintenance and strengthening of the United Nations collective security system;
>
> "3. . . .[2]
>
> "4. *Directs* the Collective Measures Committee:
>
> > "(a) To pursue such studies as it may deem desirable to strengthen the capability of the United Nations to maintain peace, taking account of the 'Uniting for peace' resolution,[3] resolution 503 (VI) and the present resolution;
> >
> > "(b) To continue the examination of information received from States pursuant to the 'Uniting for peace' resolution, resolution 503 (VI) and the present resolution;
> >
> > "(c) In the light of its studies, to suggest to the Security Council and to the General Assembly such specific ways and means as it may deem appropriate to encourage further preparatory action by States;
> >
> > "(d) To report to the Security Council and to the General Assembly not later than the ninth session of the Assembly."

3. Since its establishment the Committee has been composed of the following fourteen Members of the United Nations: Australia, Belgium, Brazil, Burma, Canada, Egypt, France, Mexico, Philippines, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia. At its 17th meeting on 16 July 1954, Mr. Santiago Perez-Perez (Venezuela) was elected Chairman to succeed Mr. João Carlos Muniz (Brazil).

Information from States relating to the steps being taken in implementation of the recommendations made by the General Assembly

4. Resolution 703 (VII) recommended to States Members, and invited States not Members of the United Nations, to continue and intensify their efforts to carry out the recommendations of the "Uniting for Peace" resolution and of resolution 503 (VI), and to keep the Committee currently informed of the progress made. As stated in its second report (paragraph 26), the Committee addressed communications to Member and non-Member States recalling the recommendations of the General Assembly concerning collective measures. As at [of] 7 October 1952, responses had been received from thirty-two States; these responses were summarized in annex G to the second report. Since that date responses have been received from five additional States and these are summarized in annex 2 to the present report.[4]

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[1] General Assembly, *Official Records, Seventh Session, Supplement No. 20A* (A/2361/Add. 1), pp. 2–3.

[2] Ellipsis in original.

[3] i.e., Res. 377 (V).

[4] Not reprinted here.

5. The second report of the Collective Measures Committee, in dealing with the question of the formation of a United Nations Voluntee Reserve, indicated that the Committee had been able to give only preliminary consideration to the proposals made by the first Secretary-General of the United Nations in this regard.[1] The Committee wa subsequently advised that the Secretary-General did not wish, for th time being, to proceed with the proposals. The Committee is o the opinion that no further action or study by it is required on thi question.

Replacements on the Panel of Military Experts

6. During 1953 the Government of the United States of Americ requested the Secretary-General to terminate the appointments o Lieutenant-General Willis D. Crittenberger and Lieutenant-Genera Hubert R. Harmon as members of the Panel of Military Experts, an nominated Lieutenant-General Withers A. Burress and Lieutenant-General Leon W. Johnson for consideration as replacements on th Panel. In accordance with the procedures set forth in paragraph 10 o General Assembly resolution 377A (V), the Secretary-General, wit the approval of the Committee, appointed Lieutenant-Genera Withers A. Burress and Lieutenant-General Leon W. Johnson a replacements on the Panel. The current list of members of the Pane of Military Experts is set forth in annex 3 to the present report.[2]

Principles of collective security

7. Since its establishment the Committee has engaged in a study of th techniques, machinery and procedures of national and internationa action in the field of political, economic and financial and militar collective measures. The members of the Committee felt that th first and second reports contained a relatively comprehensive examination of the various aspects involved in a study of the question, an they hoped that the ideas put forward could constitute a sound basi for any further study or action. During the period covered by th present report, the Committee did not embark on any new or mor detailed studies, but it considered that a restatement of the principle of collective security would serve a useful purpose in helping to maintain and strengthen the United Nations collective security system

8. At the 18th meeting of the Committee on 4 August 1954, th United States of America and the Philippines introduced workin papers (A/AC.43/L.3 and L.4 respectively) setting forth a number o important principles of collective security. At the following meetin on 10 August, the Philippines and the United States submitted joint working paper (A/AC.43/L.5) containing a co-ordinated text.

9. Discussion in the Committee indicated that a number of member wished to make specific suggestions or amendments to the text. I

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[1] See the Secretary-General's Memorandum of Apr. 20, 1950; *supra*, doc. 2.

[2] Not reprinted here.

group of the whole Committee to draft an agreed text.

10. The Working Group on Principles of Collective Security held four meetings under the chairmanship of Mr. Perez-Perez. At the third meeting on 19 August, the Philippines and the United States submitted a revised joint working paper (A/AC.43/L.5/Rev. 1). After further discussion and amendment, the Working Group approved the text (A/AC.43/L.6) of principles of collective security. At its 20th meeting on 27 August the Collective Measures Committee approved the text, which read as follows:

> "The Collective Measures Committee was directed by General Assembly resolution 703 (VII) of 17 March 1953 to pursue studies to strengthen the capability of the United Nations to maintain peace, taking account of the 'Uniting for Peace' resolution of 3 November 1950 and resolution 503 (VI) of 12 January 1952.
>
> "Acting in pursuance of this directive and having regard to the work previously done by it in developing the collective security system of the United Nations, the Collective Measures Committee has formulated certain principles which it believes should be useful to the Security Council and to the General Assembly in exercising their responsibility under the Charter in the event of collective action being taken by the United Nations in the future.
>
> "The Collective Measures Committee recommends that, in order to facilitate the effective application of the collective measures undertaken by the United Nations, and the equitable sharing of sacrifices and burdens, the General Assembly should affirm that, in any case where the United Nations, either through the Security Council or through the General Assembly, decides upon or recommends collective action to maintain or restore international peace and security, it should be guided, in undertaking collective measures, by the principles embodied in the 'Uniting for Peace' resolution, General Assembly resolutions 503 (VI) and 703 (VII), and the two previous reports of the Committee noted by the General Assembly, and in particular by the following:
>
> > "1. The greatest possible number of States should make effective and prompt contributions to the collective effort. The contributions of States may be military, political, economic or financial; direct or ancillary. Each State should make contributions in accordance with its constitutional processes and to the extent to which in its own judgment its capacity and resources permit, having regard to the requirements of individual and collective self-defence and internal security and to the total burden and sacrifice assumed by it in support of the Charter.
> >
> > "2. In the event that the collective use of force against aggression is decided upon or recommended, a primary objective shall be to secure the maximum contribution of effective military forces. States supporting United Nations collective measures should co-operate to this end not only by making their own contributions of forces but also by helping to provid

> are unable to provide adequately for the equipment, training or supplying of such forces from their own resources. States should also endeavour to make available ancillary support for the benefit of forces participating in such measures. Such ancillary support should include, where possible and subject to the explicit consent of the State concerned, necessary rights of passage through or over its territory and related rights and facilities.
>
> "3. Collective self-defence and regional arrangements or agencies constitute an important part of collective security. When action consistent with the Charter is taken in the exercise of the inherent right of individual or collective self-defence contemplated in Article 51, or to maintain or restore international peace and security within the framework of regional arrangements or agencies covered by Chapter VIII, the United Nations should take all appropriate steps, in conformity with the Charter, to make such action effective.

"States should seek to obtain, whenever appropriate, in and through the international bodies and arrangements to which they belong or are parties, and within the constitutional limitations and the other provisions of those bodies and arrangements, all possible support for collective measures undertaken by the United Nations.

> "4. Collective economic and financial measures against aggression should include, where appropriate, all practicable assistance to the victim of such aggression and to the co-operating States.

. . . .[1]

"Furthermore, it is the view of the Collective Measures Committee that:

> "When United Nations collective measures are taken or recommended against aggression, full consideration should be given to the establishment of appropriate machinery as contemplated in the two previous reports of the Committee, for the co-ordination of collective action and for the study of equitable sharing of sacrifices and burdens.
>
> "The Security Council and the General Assembly may wish to take into account, in appropriate circumstances, the arms embargo list and the list of strategic items prepared by the Collective Measures Committee[2] to expedite the application of any embargo which the United Nations may decide upon or recommend."

Future work of the Committee

1. Considering the important work which the Collective Measures Committee has performed in the past and the contribution which it

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[1] Ellipsis in original.

[2] See General Assembly, *Official Records, Seventh Session, Supplement No. 17* A/2215).

could make in the further study of collective security, it is believed that it should remain in a position to pursue such further study without prejudice to any change in the membership of the Committee which the General Assembly may wish to make.

Problem of Defining Aggression

12. REVIEW OF THE PROBLEM: Statement Made in Committee VI (Legal) of the General Assembly by the United States Representative[1] October 15, 1954[2]

The problem of whether to define "aggression," and, if so, how, is as old as the United Nations Organization and older. The word "aggression" appears more than once in the charter and is a key word in relation to the powers and responsibilities of United Nations political organs for preserving world peace.

At the charter conference of San Francisco in 1945, the question of whether to define the term "aggression" in the constitutional instrument of this Organization was directly debated. The considered opinion of the conference was that this should not be done, and it was not.

Since 1945 the General Assembly has several times come back to survey the problem of definition. The present series of debates began 4 years ago this autumn. At that time the General Assembly referred to the International Law Commission a draft definition of aggression proposed by the Soviet Union and asked the Commission to "formulate its conclusions as soon as possible."[3] In the succeeding year the Commission met, and accepted its assignment as a request to make an attempt to define aggression and report back. When it came to the point of substantive discussion, the Commission had before it a report by Mr. Spiropoulos,[4] in which it was concluded that: "A 'legal' definition of aggression would be an artificial construction," which could never be comprehensive enough to comprise all imaginable cases of aggression, since the methods of aggression are in constant process of evolution.

After consideration of various proposals, the Commission took as the basis of definition a draft by Mr. Alfaro,[5] but this formula, as submitted to final vote, was rejected 7 to 3 with one abstention. A proposal to make further attempts was defeated 6 to 4 with an a statement including acts of aggression and threats thereof as such offenses. After debate of the Report of the International Law Commission, the Sixth Assembly Session, by a small majority, recorded the view that it was "possible and desirable . . . to define aggression by reference to the elements which constitute it."[2]

A new debate on the question of definition was held at the Seventh Session of the General Assembly 2 years ago. As requested by the Assembly,[3] the Secretary-General presented a most thorough repor discussing the whole question.[4] Various formulas were put forward by the delegations to the Assembly. No general agreement on any formula was reached, and the whole matter was referred to a Specia Committee.[5] That Committee, which met in 1953 and whose repor is contained in document A/2638,[6] likewise reached no agreement The report is a most interesting synthesis of the very conscientious work done by the representatives of the 15 member states selected to serve on the Committee.

In listening to the statements of the distinguished representatives of the Soviet Union, Panama, and Cuba, and to the introductory statements by you, Mr. Chairman,[7] and by the distinguished rapporteur of the Special Committee,[8] we were vividly reminded of the difficulties and pitfalls that lie across the path of efforts to define aggression. The experience of the United Nations in coping with thi matter shows that, in repeated attempts, it has not been possible to reach general agreement on any word formula to define the term When the charter was drafted, the considered judgment of the international community was that it would be wiser not to attempt an a priori paper definition. The United States has not been persuaded of the wisdom of any other course.

DANGERS IN PAPER DEFINITIONS

There are obvious dangers in a priori paper definitions. A formul may be intended as a complete statement of what constitutes aggression, and yet the formula may fail to include mention of one or more types of conduct which would in fact be aggressive. In this way a potential aggressor would be effectively invited to pursue paths which seemed unwittingly to have been licensed by the community of nations

A definition of aggression may expressly disclaim to be all-inclusive and complete. Yet it may nevertheless give an emphasis to th

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[1] Report of the International Law Commission Covering the Work of Its Thir Session, 16 May–27 July 1951; General Assembly, *Official Records, Sixth Sessio Supplement No. 9* (A/1858), pp. 11–14.

[2] Res. 599 (VI), Jan. 31, 1952; *ibid., Supplement No. 20* (A/2119), pp. 84–85.

[3] *Ibid.*

[4] Report by the Secretary-General, Oct. 3, 1952; U. N. doc. A/2211, pp. 36–4

[5] Res. 688 (VII), Dec. 20, 1952; General Assembly, *Official Records, Sevent Session, Supplement No. 20* (A/2361), p. 63.

[6] *Ibid., Ninth Session, Supplement No. 11* (A/2638), pp. 13–14.

[7] F. García Amador of Cuba.

specified types of conduct which would be unbalanced and perhaps harmful to the general cause of keeping world peace. New events are constantly changing the world we live in; emphasis on one set of elements given properly and truly today may be false in another year.

Some of the suggestions already made in this Committee for a general definition accompanied by a list of examples of acts constituting aggression would necessarily entail emphasis on the acts listed. Who can say with certainty now what acts should be selected for the listing? If, on the other hand, an effort is made to be complete, we have again the problem of inadvertent omissions. The general definition itself would leave still unelaborated such concepts as self-defense and action inconsistent with the purposes of the United Nations. It is actually to be feared that the mixed type of definition would carry the disadvantages of both the general type and the enumerative.

The United States has also a certain distrust of setting up a priori categories into which future actions and situations are to be classified as they arise. This seems particularly true where the United Nations Organization is still relatively young and where the law of the United Nations is still in a relatively early stage of development. We have a much larger confidence in the soundness of empirical development of law, with the rules growing out of the actual cases and with any restatements or codifications of law held in abeyance pending an adequate practical experience.

It is also impossible to escape the realization that aggression is not simply the admixture of certain predefined elements in given proportions. To determine the occurrence of aggression is to make a total value judgment on the whole complex of facts and circumstances in an actual situation.

A realization of this led the founders of the United Nations to deal with the problem of aggression not by word formulas but through the living processes of the United Nations political organs. The Security Council was created for the purpose of applying international law standards, including those of the charter, to events in the real world. This is the meaning of article 39, which lays down that "the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

POSITION AT SAN FRANCISCO

> all cases of aggression. They proposed a list of eventualities in which interventio by the Council would be automatic. At the same time they would have left t the Council the power to determine the other cases in which it should likewis intervene.
>
> Although this proposition evoked considerable support, it nevertheless becam clear to a majority of the Committee that a preliminary definition of aggressio went beyond the possibilities of this Conference and the purpose of the Charter The progress of the technique of modern warfare renders very difficult the definition of all cases of aggression. It may be noted that, the list of such cases bein necessarily incomplete, the Council would have a tendency to consider of les mportance the acts not mentioned therein; these omissions would encourage th aggressor to distort the definition or might delay action by the Council. Furthermore, in the other cases listed, automatic action by the Council might bring abou a premature application of enforcement measures.
>
> The Committee therefore decided to adhere to the text drawn up at Dumbarto Oaks and to leave to the Council the entire decision as to what constitutes a threa to peace, a breach of the peace, or an act of aggression.

In today's world we must keep in mind that the General Assembl also may have responsibilities with respect to acts of aggression. Thi was made clear by the resolution "Uniting for Peace" (377 (V) adopted at the Fifth Session of the Assembly.[1]

Thus, both the General Assembly and the Security Council are in position where their success in safeguarding international peace an security can be jeopardized by adoption of a definition of aggression As matters stand under the charter in the absence of a paper definition there can be no question that, as the Sixth Session of the Genera Assembly observed in its resolution previously quoted, "the existenc of the crime of aggression may be inferred from the circumstance peculiar to each particular case."

There is this year an additional factor which my delegation believe should influence us not to proceed now with the effort to crystallize an harden an abstract definition of aggression. That is the appearanc of the term "aggression" in a memorandum submitted by the Unite Kingdom and France to a subcommittee of the Disarmament Commission on June 11, 1954.[2] The memorandum dealt in part with prohibition on the use of nuclear weapons and suggested a declaratio prohibiting their use "except in defense against aggression." We hav noted a Soviet proposal in the First Committee of the present Genera Assembly to refer this suggestion back to the Disarmament Commission for further study and clarification.[3] The Commission wi doubtless resume its work and take up again the consideration o matters ranging across the whole field of disarmament, including th joint United Kingdom-France suggestion of June 11 to which I hav referred. In these circumstances it seems to my delegation the par f wisdom to refrain here from any action on abstract definitions o aggression which could conceivably prejudice the possible success o siderations all point to a conclusion: no constructive purpose would be served at this time by the preparation of a formula to define aggression. The General Assembly should now consider that it has explored to the limits of usefulness the possibilities of defining aggression by a word formula prepared today for possible applications in the future.[1]

Human Rights

[UNIVERSAL DECLARATION OF HUMAN RIGHTS, AUGUST 10, 1948][2]

13. DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS, JUNE 1952 [3]

(*Preamble and first 19 articles were revised by the Commission on Human Rights at its April–June 1952 Session*)

Preamble

The States Parties hereto,

CONSIDERING, that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity family is the foundation of freedom, justice and peace in the world,

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[1] Under Res. 895 (IX) of Dec. 4, 1954 (General Assembly, *Official Records, Ninth Session, Supplement No. 21* (A/2890), p. 49), the General Assembly established another Special Committee to meet at United Nations Headquarters in 1956 and to submit at the eleventh session of the Assembly "a detailed report followed by a draft definition of aggression."

[2] See *A Decade of American Foreign Policy*, pp. 1156–1159.

Contrary to the hopes of many delegates at the San Francisco Conference (1945), no "International Bill of Rights" was incorporated into the United Nations Charter. Early General Assembly consideration of the problem, however, led to the establishment of the Commission on Human Rights by the Economic and Social Council. The Commission held its first session in Jan.–Feb. 1947. Within a few months, it had in preparation two documents: (1) "a declaration of general principles," and (2) "a convention or covenant of binding obligations."

The Universal Declaration of Human Rights was adopted by the General Assembly on Aug. 10, 1948. Subsequent sessions of the Commission were devoted to translating the Declaration into convention or covenant form. Differences of opinion within the Commission (1951–1952) led to the preparation of two documents (*infra*): (1) Draft Covenant on Civil and Political Rights, and (2) Draft Covenant on Economic, Social, and Cultural Rights.

Recognizing that these rights are derived from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free men enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under responsibility to strive for the promotion and observance of the rights recognized in this Covenant,

Agree upon the following articles:

PART I

Article 1 [*Self-Determination*]

[*The Commission on Human Rights drafted this article at its 1952 Session. The Commission did not have sufficient time to conside whether the provisions of Parts II and IV should apply to this Article 1*

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic social and cultural status.

2. All States, including those having responsibility for the administration of non-self-governing and trust territories and those controlling in whatsoever manner the exercise of that right by another people shall promote the realization of that right in all their territories, an shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of the peoples to self-determination shall also includ permanent sovereignty over their natural wealth and resources. I no case may a people be deprived of its own means of subsistence o the grounds of any rights that may be claimed by other States.

PART II [GENERAL PROVISIONS]

Article 2

1. Each State Party hereto undertakes to respect and to ensure t all individuals within its territory and subject to its jurisdiction th rights recognized in this Covenant, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or othe measures, each State undertakes to take the necessary steps, in ac cordance with its constitutional processes and with the provisions o

necessary to give effect to the rights recognized in this Covenant.

3. Each State Party hereto undertakes:

(a) To insure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To develop the possibilities of judicial remedy and to ensure that any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties hereto may take measures derogating from their obligations under this Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from Articles 3, 4, 5 (paragraphs 1 and 2), 7, 11, 12 and 13 may be made under this provision.

3. Any State Party hereto availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary General, of the provisions from which it has derogated, the reasons by which it was actuated and the date on which it has terminated such derogation.

Article 4

1. Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any Contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III [CIVIL AND POLITICAL RIGHTS]

Article 5

1. No one shall be arbitrarily deprived of his life. Everyone's right to life shall be protected by law.

2. In countries where capital punishment exists, sentence of death may be imposed only as a penalty for the most serious crimes pursuant

contrary to the principles of the Universal Declaration of Human Rights or the Convention on the Prevention and Punishment of the Crime of Genocide.[1]

3. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

4. Sentence of death shall not be carried out on a pregnant woman

Article 6

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation involving risk, where such is not required by his state of physica or mental health.

Article 7

1. No one shall be held in slavery; slavery and the slave trade in al their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour.

(b) The preceding sub-paragraph shall not be held to preclude in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civi obligations.

Article 8

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shal be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brough

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[1] *A Decade of American Foreign Policy*, pp. 966–969. For the status of th Genocide Convention, see ante, p. 166, footnote 3.

judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or deprivation of liberty shall have an enforceable right to compensation.

Article 9

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 10

1. Subject to any general law of the State concerned which provides for such reasonable restrictions as may be necessary to protect national security, public safety, health or morals or the rights and freedoms of others, consistent with the other rights recognized in this Covenant:

(a) Everyone legally within the territory of a State shall, within that territory, have the right to (i) liberty of movement and (ii) freedom to choose his residence;

(b) Everyone shall be free to leave any country including his own.

2. (a) No one shall be subjected to arbitrary exile;

(b) Subject to the preceding sub-paragraph, anyone shall be free to enter his own country.

Article 11

An alien lawfully in the territory of a State party hereto may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by and be represented for the purpose before the competent authority or a person or persons specially designated by the competent authority.

Article 12

1. All persons shall be equal before the courts or tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion

he interest of justice; but any judgment rendered in a criminal cas or in a suit at law shall be pronounced publicly except where the in erest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right t be presumed innocent until proved guilty according to law. In th determination of any criminal charge against him, everyone shall b entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly in a language which he understand and in detail of the nature and cause of the accusation against him

(b) To have adequate time and facilities for the preparation c his defence;

(c) To defend himself in person or through legal assistance of hi own choosing; to be informed, if he does not have legal assistance, c his right; and to have legal assistance assigned to him, in any cas where the interests of justice so require, and without payment b him in any such case where he does not have sufficient means to pa for it;

(d) To examine, or have examined the witnesses against hin and to obtain the attendance and examination of witnesses on hi behalf under the same conditions as witnesses against him;

(e) To have the free assistance of an interpreter if he canno understand or speak the language used in court;

(f) Not to be compelled to testify against himself, or to confes guilt.

3. In the case of juveniles, the procedure shall be such as will tak account of their age and the desirability of promoting their rehabil ation.

4. In any case where by a final decision a person has been convicte f a criminal offence and where subsequently his conviction has bee eversed or he has been pardoned on the ground that a new or newl discovered fact shows conclusively that there has been a miscarriag of justice, the person who has suffered punishment as a result of suc conviction shall be compensated unless it is proved that the nor disclosure of the unknown fact in time is wholly or partly attributabl o him.

Article 13

1. No one shall be held guilty of any criminal offence on accoun of any act or omission which did not constitute a criminal offence under national or international law, at the time when it was con mitted. Nor shall a heavier penalty be imposed than the one tha was applicable at the time when the criminal offence was committe If, subsequent to the commission of the offence, provision is made b law for the imposition of a lighter penalty, the offender shall benefi thereby.

2. Nothing in this article shall prejudice the trial and punishmer of any person for any act or omission, which, at the time when it wa

recognized by the community of nations.

Article 14

Everyone shall have the right to recognition everywhere as a person before the law.

Article 15

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to maintain or to change his religion or belief, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to maintain or to change his religion or belief.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Article 16

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such only as are provided by law and are necessary, (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order, or of public health or morals.

Article 17

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 18

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public

rights and freedoms of others. This article shall not prevent th imposition of lawful restrictions on the exercise of this right by mem bers of the armed forces or of the police.

3. Nothing in this article shall authorize States Parties to th Freedom of Association and Protection of the Right to Organiz Convention, 1948,[1] to take legislative measures which would prejudice or to apply the law in such a manner as to prejudice, the guarantee provided for in that convention.

Article 19

All persons are equal before the law. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour sex, language, religion, political or other opinion, national or socia origin, property, birth or other status.

PART IV [COMPLAINT PROCEDURE]

[*Part IV was revised by the Commission on Human Rights at its 1951 session and was not considered at its 1952 session because of the lack o sufficient time to do so. The renumbering of the articles of Parts IV and V is not official, but has been done for the convenience of the reader. The Commission has not as yet decided whether the implementation procedur set forth in this Part IV should also be included in the Covenant o Economic, Social and Cultural Rights. The discussion in the 1951 session of the Commission indicated, however, wide sentiment in th Commission against the applicability of this procedure to the economic social and cultural rights. This procedure was initially drafted by th Commission with respect to the civil and political rights in this Covenant For these reasons this procedure is included only in this Covenant.*]

Article 20

[formerly Article 33]

[*Note: The Commission decided at its 1951 session to postpone th vote on the whole of this article. The following is the provisional tex of the article.*]

1. With a view to the implementation of the provisions of th International Covenant on Human Rights, there shall be set up a Human Rights Committee, hereinafter referred to as "the Committee" composed of nine members with the functions hereinafter provided

2. The Committee shall be composed of nationals of the State Parties to the Covenant who shall be persons of high moral standin and recognized competence in the field of human rights, considera

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[1] This Convention, adopted and opened for ratification July 9, 1948, entered int effect July 4, 1950. It has been ratified by Austria, Belgium, Burma, Cuba, Denmark, Finland, France, Guatemala, Honduras, Iceland, Ireland, Mexico, th Netherlands, Norway, Pakistan, the Philippine Republic, Sweden, the Ukrainia S.S.R., the U.S.S.R., the United Kingdom, and Uruguay. The Convention i pending action by the U.S. Senate as S. Exec. S, 81st Cong., 1st sess.

having a judicial or legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacities.

Article 21
[formerly Article 34]

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in Article 33 [*now 20*] and specially nominated for that purpose by the States Parties to the Covenant.

2. Each State shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

3. Nominations shall remain valid until new nominations are made for the purpose of the next election under Article 39 [*now 26*]. A person shall be eligible to be renominated.

Article 22
[formerly Article 35]

At least three months before the date of each election to the Committee, the Secretary-General of the United Nations shall address a written request to the States Parties to the Covenant inviting them, if they have not already submitted their nominations, to submit them within two months.

Article 23
[formerly Article 36]

The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and submit it to the International Court of Justice and to the States Parties to the Covenant.

Article 24
[formerly Article 37]

1. The Secretary-General of the United Nations, on behalf of the States Parties to the Covenant, shall request the International Court of Justice to elect the members of the Committee from the list referred to in Article 36 [*now 23*] and in accordance with the conditions set out below.

2. On receipt of the list from the Secretary-General of the United Nations, the President of the International Court of Justice shall fix the time of elections for members of the Committee.

Article 25
[formerly Article 38]

1. No more than one national of any State may be a member of the Committee at any time.

2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the

majority of the votes of all the members of the Court.

3. The quorum of nine laid down in Article 25, paragraph 3, o the Statute of the Court shall apply for the holding of the election by the Court.

Article 26
[formerly Article 39]

The members of the Committee shall be elected for a term of fiv years and be eligible for re-election. However, the terms of five of th members elected at the first election shall expire at the end of tw years. Immediately after the first election the names of the member whose terms expire at the end of the initial period of two years shal be chosen by lot by the President of the International Court of Justice

Article 27
[formerly Article 40]

1. Should a vacancy arise, the provisions of Articles 35, 36, 37 and 3 [*now 22, 23, 24 and 25*] shall apply to the election.

2. A member of the Committee elected to fill a vacancy shall, if hi predecessor's term of office has not expired, hold office for the remainder of that term.

Article 28
[formerly Article 41]

A member of the Committee shall remain in office until his successo has been elected; but if the Committee has, prior to the election of hi successor, begun to consider a case, he shall continue to act in that case nd his successor shall not act in that case.

Article 29
[formerly Article 42]

The resignation of a member of the Committee shall be addresse to the Chairman of the Committee through the Secretary of the Committee who shall immediately notify the Secretary-General of th United Nations and the International Court of Justice.

Article 30
[formerly Article 43]

The members of the Committee and the Secretary, when engaged o the business of the Committee, shall enjoy diplomatic privileges an immunities.

Article 31
[formerly Article 44]

1. The Secretary of the Committee shall be appointed by the International Court of Justice from a list of three names submitted by th Committee.

2. The candidate obtaining the largest number of votes and a absolute majority of the votes of all the members of the Court shall b declared elected.

3. The quorum of nine laid down in Article 25, paragraph 3 of the Statute of the Court shall apply for the holding of the election by the Court.

Article 32

[formerly Article 45]

The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

Article 33

[formerly Article 46]

The Committee shall, at its initial meeting, elect its Chairman and Vice-Chairman for the period of one year.

Article 34

[formerly Article 47]

The Committee shall establish its own rules of procedure, but these rules shall provide that:

(a) Seven members shall constitute a quorum;

(b) The work of the Committee shall proceed by a majority vote of the members present; in the event of an equality of votes the Chairman shall have a casting vote;

(c) All States Parties to the Covenant having an interest in any matter referred to the Committee under Article 52 [*now 39*] shall have the right to make submissions to the Committee in writing.

The States referred to in Article 52 [*now 39*] shall further have the right to be represented at the hearings of the Committee and to make submissions orally.

(d) The Committee shall hold hearings and other meetings in closed session.

Article 35

[formerly Article 48]

1. After its initial meeting the Committee shall meet:

(a) At such times as it deems necessary;

(b) When any matter is referred to it under Article 52 [*now 39*];

(c) When convened by its Chairman or at the request of not less than five of its members.

2. The Committee shall meet at the permanent Headquarters of the United Nations or at Geneva.

Article 36

[formerly Article 49]

The Secretary of the Committee shall attend its meetings, make all necessary arrangements, in accordance with the Committee's instructions, for the preparation and conduct of the work, and carry out any other duties assigned to him by the Committee.

[formerly Article 50]

The members and the Secretary of the Committee shall receiv emoluments commensurate with the importance and responsibilitie of their office.

Article 38
[formerly Article 51]

The Secretary-General of the United Nations shall provide th necessary staff and facilities for the Committee and its members.

Article 39
[formerly Article 52]

1. If a State Party to the Covenant considers that another Stat Party is not giving effect to a provision of the Covenant, it may, b written communication, bring the matter to the attention of tha State. Within three months after the receipt of the communication the receiving State shall afford the communicating State an explanation or statement in writing concerning the matter which should include, to the extent possible and pertinent, references to domesti procedures and remedies taken, or pending, or available in the matter

2. If the matter is not adjusted to the satisfaction of both Partie within six months after the receipt by the receiving State of th initial communication, either State shall have the right to refer th matter to the Committee, by notice given to the Secretary of th Committee and to the other State.

3. Subject to the provisions of Article 54 [*now 41*] below, in seriou cases where human life is endangered the Committee may, at th request of a State Party to the Covenant referred to in paragraph of this Article, deal forthwith with the case on receipt of the initia communication and after notifying the State concerned.

Article 40
[formerly Article 53]

The Committee shall deal with any matter referred to it unde Article 52 [*now 39*] save that it shall have no power to deal wit any matter:

(a) For which any organ or specialized agency of the Unite Nations competent to do so has established a special procedure b which the States concerned are governed; or

(b) With which the International Court of Justice is seized othe than by virtue of Article . . . of the present Covenant.

Article 41
[formerly Article 54]

Normally, the Committee shall deal with a matter referred to i only if available domestic remedies have been invoked and exhauste in the case. This shall not be the rule where the application of the remedies is unreasonably prolonged.

Article 42
[formerly Article 55]

In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.

Article 43
[formerly Article 56]

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

Article 44
[formerly Article 57]

1. Subject to the provisions of Article 54 [*now 41*], the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as recognized in this Covenant.
2. The Committee shall, in every case and in no event later than eighteen months after the date of receipt of the notice under Article 52 [*now 39*], draw up a report which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. The Committee shall complete its report as promptly [as possible], particularly when requested by one of the States Parties where human life is endangered.
3. If a solution within the terms of paragraph 1 of this article is reached the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall state in its report its conclusions on the facts and attach thereto the statements made by the parties to the case.

Article 45
[formerly Article 58]

The Committee shall submit to the General Assembly, through the Secretary-General, an annual report of its activities.

Article 46
[formerly Article 59]

The States Parties to this Covenant agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee.

PART V

Article 47

[Territories Application Article]

[*This article was adopted by the General Assembly at its 1950 Session and revised only slightly by the Commission on Human Rights at its 1951 Session.*]

The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or Colonial Territories which are being administered or governed by such metropolitan State

Article 48

[Federal State Article]

[*The consideration of this article was postponed until the 1953 Session of the Commission on Human Rights. The United States, together with Australia and India, submitted the following proposal for this article:*

1. A federal State may at the time of signature or ratification of or accession to, this Covenant make a Declaration stating that it is a federal State to which this Article is applicable. In the event that such a Declaration is made, paragraphs 2 and 3 of this Article shall apply to it. The Secretary-General of the United Nations shall inform the other States Parties to this Covenant of such Declaration.

2. This Covenant shall not operate so as to bring within the jurisdiction of the federal authority of a federal State making such Declaration, any of the matters referred to in this Covenant which independently of the Covenant, would not be within the jurisdiction of the federal authority.

3. Subject to paragraph 2 of this Article, the obligations of such federal State shall be:

(a) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of Parties which have not made a declaration under this Article.

(b) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as states, provinces, cantons, autonomous regions, or by any other name), and which are not, to this extent, under the constitutional system bound to take legislative action, the federal government shall bring such provisions with favorable recommendations to the notice of the appropriate authorities of the constituent units, and shall also request such authorities to inform the federal government as to the law of the constituent units in relation to those provisions of the

Covenant. The federal government shall transmit such information received from constituent units to the Secretary General of the United Nations.]

[*Former articles 70 and 73 were revised by the Commission on Human Rights at its 1950 Session and were not considered at its 1951 or 1952 session because of the lack of sufficient time to do so.*]

Article 49
[formerly Article 70]
[Ratification and accession]

1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratified or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

Article 50
[formerly Article 73]
[Amendments]

1. Any State Party to the Covenant may propose an amendmen and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States favour such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly for approval.

2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

3. When such amendments come into force they shall be binding on these Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

TURAL RIGHTS, JUNE 1952 [1]

(*Preamble and first 16 articles were revised by the Commission o Human Rights at its April–June 1952 Session*)

Preamble

The States Parties hereto,

CONSIDERING, that, in accordance with the principles proclaime in the Charter of the United Nations, recognition of the inheren dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

RECOGNIZING that these rights are derived from the inherent dignit of the human person,

RECOGNIZING that, in accordance with the Universal Declaration o Human Rights,[2] the ideal of free men enjoying freedom from fear an want can only be achieved if conditions are created whereby everyon may enjoy his economic, social and cultural rights, as well as his civi and political rights,

CONSIDERING the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of human rights and freedoms,

REALIZING that the individual, having duties to other individual and to the community to which he belongs, is under responsibility t strive for the promotion and observance of the rights recognized i this Covenant,

Agree upon the following articles:

PART I

Article 1 [Self-Determination]

[*The Commission on Human Rights drafted this article at its 195 Session. The Commission did not have sufficient time to conside whether the provisions of Parts II and IV should apply to this Article 1.*

1. All peoples and all nations shall have the right of self-determination, namely, the right freely to determine their political, economic social and cultural status.

2. All States, including those having responsibility for the administration of non-self-governing and trust territories and those controllin in whatsoever manner the exercise of that right by another people shall promote the realization of that right in all their territories, an shall respect the maintenance of that right in other States, in conformity with the provisions of the United Nations Charter.

3. The right of the peoples to self-determination shall also include a

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[1] Department of State *Bulletin*, July 7, 1952, pp. 28–31; Commission o Human Rights, *Report of the Eighth Session, op. cit.*, pp. 44–46. Earlier and late drafts are printed in the various Reports of the Commission.

[2] *A Decade of American Foreign Policy*, pp. 1156–1159.

no case may a people be deprived of its own means of subsistence on the grounds of any rights that may be claimed by other States.

PART II [GENERAL PROVISIONS]

Article 2

1. Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by legislative as well as by other means.

2. The States Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3

The States Parties to the Convenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant.

Article 4

The States Parties to this Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein or at their limitation, to a greater extent than is provided for in this Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III [ECONOMIC, SOCIAL, AND CULTURAL RIGHTS]

Article 6

1. Work being at the basis of all human endeavour, the States Parties to the Covenant recognize the right to work, that is to say, the fundamental right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts.

2. The steps to be taken by a State Party to this Covenant to achiev the full realization of this right shall include programmes, policies and techniques to achieve steady economic development and ful productive employment under conditions safeguarding fundamenta political and economic freedoms to the individual.

Article 7

The States Parties to the Covenant recognize the right of everyon to just and favourable conditions of work, including:

(a) Safe and healthy working conditions;

(b) Remuneration which provides all workers as a minimum with

(i) Fair wages and equal remuneration for work of equal valu without distinction of any kind, in particular, women being guarantee conditions of work not inferior to those enjoyed by men, with equa pay for equal work; and

(ii) A decent living for themselves and their families; an

(c) Rest, leisure and reasonable limitation of working hours an periodic holidays with pay.

Article 8

The States Parties to the Covenant undertake to ensure the fre exercise of the right of everyone to form and join local, national an international trade unions of his choice for the protection of his economic and social interests.

Article 9

The States Parties to the Covenant recognize the right of everyon to social security.

Article 10

The States Parties to the Covenant recognize that:

1. Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and afte childbirth; and

2. Special measures of protection, to be applied in all appropriat cases within and with the help of the family, should be taken on behal of children and young persons, and in particular they should not b required to do work likely to hamper their normal development. T protect children from exploitation, the unlawful use of child labou and the employment of young persons in work harmful to health o angerous to life should be made legally actionable; and

The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions.

Article 13

The States Parties to the Covenant, realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, recognize the right of everyone to the enjoyment of the highest standard of health.

The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:

(a) The reduction of infant mortality and the provision for healthy development of the child;

(b) The improvement of nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;

(c) The prevention, treatment and control of epidemic, endemic and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 14

1. The States Parties to the Covenant recognize the right of everyone to education, and recognize that education shall encourage the full development of the human personality, the strengthening of respect for human rights and fundamental freedoms and the suppression of all incitement to racial and other hatred. It shall promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace and enable all persons to participate effectively in a free society.

2. It is understood:

(a) That primary education shall be compulsory and available free to all;

(b) That secondary education, in its different forms, including technical and professional secondary education, shall be generally available and shall be made progressively free;

(c) That higher education shall be equally accessible to all on the basis of merit and shall be made progressively free;

(d) That fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible.

3. In the exercise of any functions which they assume in the field of education, the States Parties to the Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools other than those established by

standards as may be laid down or approved by the State and to ensure the religious education of their children in conformity with thei own convictions.

Article 15

Each State Party to the Covenant which, at the time of becomin a party to this Covenant, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsor primary education, free of charge, undertakes, within two years, t work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in th plan, of the principle of compulsory primary education free of charg for all.

Article 16

1. The States Parties to the Covenant recognize the right o everyone:

(a) To take part in cultural life;
(b) To enjoy the benefits of scientific progress and its applications

2. The steps to be taken by the States Parties to this Covenant t achieve the full realization of this right shall include those necessar for the conservation, the development and the diffusion of scienc and culture.

3. The States Parties to the Covenant undertake to respect th freedom indispensable for scientific research and creative activity.

PART IV [REPORTING PROCEDURE]

[Part IV was initially drafted by the Commission on Human Right at its 1951 Session and was not considered at its 1952 Session becaus of the lack of sufficient time to do so. The renumbering of the article of Parts IV and V is not official, but has been done for the convenienc of the reader. The Commission has not as yet decided whether th procedure set forth in this Part IV should also be applicable to civil an political rights. Sentiment at the 1951 Session of the Commission wa divided on this issue. This procedure was, however, initially drafte by the Commission with respect to the economic, social and cultura rights in this Covenant. For this reason this procedure is include only in this Covenant.]

Article 17

[formerly Article 60]

The States Parties to this Covenant undertake to submit report concerning the progress made in achieving the observance of thes rights in conformity with the following articles and the recommendations which the General Assembly and the Economic and Socia Council, in the exercise of their general responsibility, may make t all the Members of the United Nations.

Article 18
[formerly Article 61]

1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this part of the Covenant.

3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency, the action required by this Article may take the form of a precise reference to the information so furnished.

Article 19
[formerly Article 62]

Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Part of the Covenant falling within their competence. These reports shall include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 20
[formerly Article 63]

The Economic and Social Council shall transmit to the Commission on Human Rights for study and recommendation the reports concerning human rights submitted by States, and those concerning human rights submitted by the competent specialized agencies.

Article 21
[formerly Article 64]

The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on the report of the Commission on Human Rights.

Article 22
[formerly Article 65]

The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under Article . . . indicating the progress made in achieving general observance of these rights.

[formerly Article 66]

The Economic and Social Council may submit to the Technica Assistance Board[1] or to any other appropriate international orga the findings contained in the report of the Commission on Huma Rights which may assist such organs in deciding each within it competence, on the advisability of international measures likely t contribute to the progressive implementation of this Covenant.

Article 24

[formerly Article 67]

The States Parties to the Covenant agree that international actio for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional and technical meetings and studies with governments.

Article 25

[formerly Article 68]

Unless otherwise decided by the Commission on Human Right or by the Economic and Social Council or requested by the Stat directly concerned, the Secretary-General of the United Nation shall arrange for the publication of the report of the Commission o Human Rights, or reports presented to the Council by specialize agencies as well as of all decisions and recommendations reached b the Economic and Social Council.

Article 26

[formerly Article 69]

Nothing in this Covenant shall be interpreted as impairing th provisions of the Charter of the United Nations and of the Constitutions of the specialized agencies, which define the respectiv responsibilities of the various organs of the United Nations and o the specialized agencies in regard to the matters dealt with in this Covenant.

PART V

Article 27

[Territories Application Article]

[*This article was adopted by the General Assembly at its 1950 Sessio and revised only slightly by the Commission on Human Rights at it 1951 Session.*]

The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all th territories, be they Non-Self-Governing, Trust, or Colonial Territories which are being administered or governed by such metropolita State.

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[1] Set up by the Economic and Social Council in its Res. 222 (IX), adopted Aug 15, 1949 (E/1546) to coordinate the work of the specialized agencies in the U. N

[Federal State Article]

[*The consideration of this article was postponed until the 1953 Session of the Commission on Human Rights. The United States, together with Australia and India, submitted the following proposal for this article:*

1. A federal State may at the time of signature or ratification of, or accession to, this Covenant make a Declaration stating that it is a federal State to which this Article is applicable. In the event that such a Declaration is made, paragraphs 2 and 3 of this Article shall apply to it. The Secretary-General of the United Nations shall inform the other States Parties to this Covenant of such Declaration.

2. This Covenant shall not operate so as to bring within the jurisdiction of the federal authority of a federal State making such Declaration, any of the matters referred to in this Covenant which independently of the Covenant, would not be within the jurisdiction of the federal authority.

3. Subject to paragraph 2 of this Article, the obligations of such federal State shall be:

(a) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of Parties which have not made a declaration under this Article.

(b) In respect of any provisions of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as states, provinces, cantons, autonomous regions, or by any other name), and which are not, to this extent, under the constitutional system bound to take legislative action, the federal government shall bring such provisions with favorable recommendations to the notice of the appropriate authorities of the constituent units, and shall also request such authorities to inform the federal government as to the law of the constituent units in relation to those provisions of the Covenant. The federal government shall transmit such information received from constituent units to the Secretary-General of the United Nations.]

[*Former Articles 70 and 73 were revised by the Commission on Human Rights at its 1950 Session and were not considered at its 1951 or 1952 Session because of the lack of sufficient time to do so.*]

Article 29
[formerly Article 70]
[Ratification and Accession]

1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this Covenant shall be effected by

Secretary-General of the United Nations, and as soon as twent States have deposited such instruments, the Covenant shall come int force among them. As regards any State which ratified or accede thereafter the Covenant shall come into force on the date of th deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform al Members of the United Nations, and other States which have signed o acceded, of the deposit of each instrument of ratification or accession

Article 30
[formerly Article 73]
[Amendments]

1. Any State Party to the Covenant may propose an amendmen and file it with the Secretary-General. The Secretary-General shal thereupon communicate the proposed amendment to the State Parties to the Covenant with a request that they notify him whethe they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one-thir of the States favour such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. An amendment adopted by a majority of States present and voting at th conference shall be submitted to the General Assembly for approval

2. Such amendments shall come into force when they have bee approved by the General Assembly and accepted by a two-third majority of the States Parties to the Covenant in accordance with thei respective constitutional processes.

3. When such amendments come into force they shall be binding o those parties which have accepted them, other Parties being still boun by the provisions of the Covenant and any earlier amendments whic they have accepted.

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15. MESSAGE FROM THE PRESIDENT TO THE COMMISSIO ON HUMAN RIGHTS AT GENEVA, APRIL 7, 1953 [1]

I am asking Mrs. Oswald B. Lord, the new representative of th United States on the U.N. Commission on Human Rights, to expres to the Commission my deep personal interest in its work. In thes days of international tension and strain, it is encouraging to kno that the members of the Commission on Human Rights are workin to develop effective programs to promote human rights and fundamental freedoms for all people and all nations throughout the world

The U.N. Charter states the human-rights goals which the Unite States and the other members of the United Nations have pledge themselves to achieve in cooperation with the United Nations—th promotion of universal respect for human rights and fundamenta freedoms for all without distinction as to race, sex, language, o religion.

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[1] Department of State *Bulletin*, Apr. 20, 1953, p. 580.

beacon in the steady march toward achieving human rights and fundamental freedoms for all.

People everywhere are seeking freedom—freedom to live, freedom from arbitrary restraint, freedom to think and speak as they wish, freedom to seek and find the truth. We must press ahead to broaden the areas of freedom. The United States is convinced that freedom is an indispensable condition to the achievement of a stable peace.

Unfortunately, in too many areas of the world today there is subjugation of peoples by totalitarian governments which have no respect for the dignity of the human person. This denial of the freedom of peoples, the continued disregard of human rights, is a basic cause of instability and discontent in the world today.

For these reasons, the work of the Commission on Human Rights assumes greater importance and meaning. For these reasons also, there is need for a new approach to the development of a human-rights conscience in all areas of the world. I have accordingly asked Mrs. Lord to present positive U.N. action programs to the Commission which we feel will contribute to that recognition of human rights and fundamental freedoms which people are seeking throughout the world.

16. STATEMENT BY THE UNITED STATES REPRESENTATIVE [2] BEFORE THE NINTH SESSION OF THE COMMISSION ON HUMAN RIGHTS, GENEVA, APRIL 8, 1953 [3]

As this is the first occasion in which I have had the privilege of serving in the Commission on Human Rights, I hope you will permit me to make a few general remarks about the agenda. I am happy to be a member of this Commission and to join with you in the vital task of helping to advance the cause of freedom. I accepted this appointment from the President of the United States because I personally am convinced of the importance of promoting respect for human rights through international cooperation.

At the very outset of our work, I wish to assure you that the U.S. Government continues to support wholeheartedly the promotion of respect for and observance of human rights and fundamental freedoms. Both President Eisenhower and Secretary Dulles have spoken to me personally about their deep concern that the United Nations move steadily forward toward the goals laid down in the Charter.

In order to assure steady progress toward those goals, the Government of the United States is suggesting a new and urgent approach to the promotion of human rights, to take account of changed condi-

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[1] *A Decade of American Foreign Policy*, pp. 1156–1159.

[2] Mrs. Oswald B. Lord.

[3] Department of State *Bulletin*, Apr. 20, 1953, pp. 581–582. For a report on the Ninth Session, see "New U.S. Action Program for Human Rights," *ibid.*, Aug. 17, 1953, pp. 215–222.

many areas.

Under these circumstances, the world does not yet appear ready for a treaty of such comprehensive scope as the proposed covenant on human rights. We need to work together immediately to develop a higher moral sense of human-rights values in all areas of the world For that reason, the United States is urging that this Commission give immediate consideration to the development of human-right action programs.

The Commission on Human Rights already has made an outstanding contribution to the constructive achievements of the United Nations. The Universal Declaration of Human Rights stands as major landmark of progress in this difficult field. It is with understandable pride that I participate in this Commission, where our two past chairmen, Mrs. Roosevelt and Mr. Malik, and their colleague have brought intelligence and skill to bear upon some of the mos challenging problems of our times.

The agenda of the Commission clearly falls into two distinct parts the completion of the draft covenants and the consideration of a wid range of other matters.

The General Assembly and the Economic and Social Council hav asked that the Commission complete the drafting of the covenants This task will necessarily occupy a considerable portion of our time but perhaps, if we could set May 1 as a target date for completing th remaining portions of the two covenants, we need not devote mor than half of our session to this task.

Since the completion of the Universal Declaration of Human Rights in 1948, the Commission has been entirely engrossed in th drafting of the proposed covenants on human rights. As discussion have proceeded on the covenants, it begins to appear that they ar not receiving the acceptance which had been initially anticipated and that they will not be ratified as widely as had been hoped. Th climate of world opinion does not yet seem favorable to the conclusion of the covenants in the United Nations. The covenants will not hav the expected effectiveness in the field of human rights. For thes reasons, my Government has concluded that in the present stage o international relations it would not ratify the covenants.

Inasmuch as the United States is a loyal member of the United Nations, its delegation will continue to collaborate in the drafting o these covenants and to make suggestions for improving them. Th ovenants will be looked upon as a more precise and definitive statement of the principles embodied in the Universal Declaration o Human Rights, irrespective of their ratification or nonratification My Government hopes that there will be a time when human right will be sufficiently respected in fact and when a human-rights conscience will be sufficiently developed throughout the world so that odification of the then prevailing principles will be worthwhile When and if such a time comes the United States may give consideration to the ratification of a covenant on human rights, and for tha least possible change if they are used as a model for futur

It seems increasingly important, therefore, that alternative effective and acceptable ways be devised by the Commission the goals of the Charter for the promotion of human rights a mental freedoms.

The remaining part of our agenda contains a large numbe not related to the draft covenants. The U.S. delegation the listing on the provisional agenda and the order of that li the appropriate time, however, I shall suggest that some items be given priority. A number of these items are of t significance and deserve our most earnest consideration. this reason that I hope that perhaps the last half of our sess be devoted to programs of practical action.

It is the view of the U.S. Government that the guiding for the work of the Commission should be to find the s speediest methods of raising the level of practice around in the observance of human rights. This would require initiate a number of action programs. I shall be prepared detailed proposals about such action programs in connec specific agenda items. For the present I should like merely the three principal proposals which my Government wis submit to the Commission.

First, we will propose that the Commission institute a various aspects of human rights throughout the world. The sion could undertake this with the assistance of a rapport rapporteur would consult with nongovernmental organizatio as governments and the specialized agencies for relevant da mit to the Commission. The report of the rapporteur woul sidered in the Commission, which might then make gener mendations concerning the subject under discussion. Tw that might well be considered first are freedom of religio right to a fair trial.

Second, we will propose that annual reports on develop the field of human rights be prepared by each member go with the assistance of a national advisory committee. The would be considered in the Commission at the same time as of the proposed rapporteur would be submitted.

Third, we will propose that the United Nations establis services on specific aspects of human rights along the li advisory services now being provided in the economic, s public-administration fields. These services would be in t experts going to countries requesting the services, scholar fellowships being provided for training abroad, and arrang seminars.

These are action programs that the Commission can under There is no need for the Commission to limit itself to the d covenants on human rights, which in any event will ha applicability. The Commission should give more of its at

United Nations for the promotion of the human-rights principles o the charter. Indeed, it will be greatly to the advantage of the Commission itself if it can at this session begin work on some of thes affirmative tasks even before the covenants are considered by th General Assembly. In this way the Commission could mark out th basic lines of its future action programs and establish firmly its position in this field.

With all these potential programs for immediate action at this session of the Commission, I think that you can appreciate my view tha we should reserve adequate time for the consideration of these late tems.

It is my earnest hope that the work of this session will be successful specially in the launching of new programs that will contribut effectively to the safeguarding of human liberty.

17. STATEMENT BY THE UNITED STATES REPRESENTATIVE[1] BEFORE THE NINTH SESSION OF THE COMMISSION ON HUMAN RIGHTS, GENEVA, MAY 19, 1953[2]

At the second meeting of this session of the Commission I indicate that at a later stage of this session I would put forward proposals whic my Government feels are best suited to furthering the Commission' task of promoting human rights. I want to tell you today, at the outset, that these proposals are the product of earnest and careful consideration, and they have been framed in the sincere belief that thei adoption will make more significant and meaningful the work of th United Nations in the field of human rights. They stand upon th charter and upon the Universal Declaration of Human Rights; upo that foundation we hope to build a program which will continuousl advance the cause of human rights—slowly perhaps but neverthele effectively. My country has since its inception been dedicated to th advancement of human rights, and we continue, in accordance wit our tradition, to support their advancement throughout the world We recognize the fundamental and intrinsic importance of huma rights; we have learned through bitter experience that systematic an deliberate denials of human rights have a direct relationship to th preservation of world peace. Peace and security cannot be assured in world in which peoples who are denied their individual rights are presse to resort to measures of violence against their oppressors. And th governments which violate the fundamental human rights of thos whom they control cannot be expected to respect the rights of othe members of the international community.

I recall, as I am sure all of my colleagues here do, the hope for better, peaceful world which inspired the efforts of those who, at Sa Francisco, drafted the Charter of the U.N. Organization. M world organization which would deal with fundamental, long-range problems in addition to those problems immediately related to the settling of disputes as they arise among nations. It was the intention of my Government then, as it continues to be, that the peoples of the world, wearied by war and fear of war, must be assisted by the world organization in their long struggle to achieve a better life wherein the individual person and the rights which he possessed would secure full recognition everywhere. It was for these reasons that express provision was made in the charter, in articles 55 and 56, for a statement of the obligation of all members with respect to human rights, and in article 68, for the establishment of a commission for the promotion of human rights. And it should be the constant purpose of the members of this Commission, I believe, to seek those ways which will be most effective in bringing about the attainment of the charter goal of increased respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

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[1] Mrs. Oswald B. Lord.

In the Charter of the United Nations there are no words more inspiring than those of the Preamble which express the determination of the peoples of the United Nations "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small." These words reflect the age-old desire of men to be free, to think and worship as they please, and to speak and write as they choose. These words reflect man's desire to escape from the tyranny of other men, to live without fear of the secret police, without fear of the unjust trial—without fear of the arbitrary death sentence or the concentration camp. These words are but the latest rendering of the historic yearnings that have made men work, and fight, and die that they and their fellow men might know freedom and justice.

Much has been done since the San Francisco conference 8 years ago to translate these words of the Preamble and the later provisions of the charter into action. The General Assembly, the Economic and Social Council, and the Commission on Human Rights have all sought to define general principles, to establish criteria of conduct, and to expose wholesale violations of the rights of man. The Universal Declaration of Human Rights is the greatest single achievement of the United Nations in the promotion of human freedom. President Eisenhower said in the message to the Commission which I read at the beginning of this session:

> For the people of the United States, as well as for people everywhere, the U.N. Universal Declaration of Human Rights is a significant beacon in the steady march toward achieving human rights and fundamental freedoms for all.

It is the earnest hope of the U.S. Government that the Commission on Human Rights will continue to move steadily forward toward finding ways to give practical expression to the goals and standards set forth in the Universal Declaration. For the past several years, the Commission has been preoccupied in the drafting of covenants on Human Rights. This arduous effort to translate the moral pro-covenants is nearing completion, thanks to the devotion and perseverance of the members of this Commission. Henceforth the Commission will be freer than in the past to devise other methods fo insuring the enjoyment of human rights and human freedoms.

I do not for one moment wish to question the Commission's preoccupation with the responsibility of drafting the covenants or to belittle in any way the work that has been accomplished in this field I merely wish to point out that, of all the functional and regiona commissions established by the Economic and Social Council, thi Commission is the only one that has been limited almost entirely t the drafting of international instruments. The time has come, believe, for this Commission, now that the completion of the covenants is in sight, to turn its attention, like the Social Commission an other Commissions, to the practical problems of helping all governments and peoples to move ahead in the advancement of their well being.

The task of devising new methods in the field of human rights is no an easy one. There are many possible methods, some of which migh be practicable and some of which might prove to be fruitless. It i with a view to helping the Commission to develop some new actio programs that the U.S. delegation is introducing today these thre draft resolutions concerning the future work of the Commission.

Before explaining each of the three draft resolutions, I should lik to make a few general observations about the nature of the new actio program proposed by the U.S. delegation.

First, I must admit that these three proposals are not entirely ne in concept. The Commission has had similar items on its agenda but it has never had time to consider them thoroughly. The forme Secretary-General,[1] in his Twenty-Year Program,[2] proposed many similar ideas; but, again, the Commission lacked the time to explore them Both governments and nongovernmental organizations have from time to time suggested plans for action in the field of human rights The major purpose of the U.S. proposal is to assemble the most practical of all these many ideas and plans, together with several ne procedural devices, into a single unified program—a program tha offers the best hope of early results.

Second, these draft resolutions are merely an outline of an actio program—skeletons on which flesh and blood are still to be added There are still many technical problems yet to be clarified. It is ou hope that the Commission at this session will bring these skeleto outlines to life.

Third, this action program—an action program in three parts—is quite frankly, experimental in character. This program would take th Commission into new fields of activity and would present it with ne problems, and perhaps even with new difficulties. For this reaso our delegation has tried to limit this experiment to a few simple an relatively modest proposals that show real promise of success.

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[1] Trygve Lie.

[2] See *supra*, pp. 162–167.

possibilities for action by the Commission. [illegible] other programs which could be used to supplement the initial proposals submitted by our delegations.

Fifth, the initiation of this action program would help return the Commission to the broad and constructive work for which it was originally intended. Because the Commission has been preoccupied with the drafting of the covenants, many of the activities with which it could otherwise have been concerned—such as freedom of information, forced labor, slavery, and prisoners of war—have had to be performed by other, *ad hoc* bodies.

The three proposals which are before the Commission are thus a distillation of ideas and proposals from many different sources. They are an outline of a new approach to human rights. They are an experiment in new ways to secure and safeguard liberty, and a mere beginning in a new and broad field of activity. In preparing these three draft resolutions, the U.S. delegation has consulted privately with other delegations, with the Secretariat, with several of the specialized agencies, and with the nongovernmental organizations. These preliminary conversations have been most helpful in clarifying and amplifying the general proposals which I outlined briefly in my opening statement at this session. The draft resolutions before you incorporate many of the comments and suggestions we have received, but they do not include many of the minor details that may be required as the program develops. I invite whatever further suggestions you may have.

The first of the draft resolutions (doc. E/CN.4/L.266) proposes a new program for annual reports on developments in the field of human rights. It is the view of our delegation that, if the Commission is to undertake any important activities in addition to the drafting of the covenants, it must have adequate information on which to base its consideration of the problems of human rights. Much of that information is now available in one form or another, especially in the *Yearbook on Human Rights*. What is now required is an annual review of the major developments, the principal achievements, and the general progress which is being made toward attaining the goals set forth in the Universal Declaration of Human Rights. What is needed is an examination by each member government of its own shortcomings and, more important, its progress toward remedying them. Periodic self-examination is good for an individual; it is equally good for a government. The annual reports which we are proposing would be an experiment in national self-examination.

Some representatives have pointed out to our delegation that this request for yet another report might place an excessive burden upon governments that are already overburdened with preparing reports to the United Nations and the specialized agencies. But what we envisage is not another long detailed report containing masses of statistics that would tax the resources of our governments and the patience of our civil servants. No, what we envisage is a relatively brief summary of developments and accomplishments, highlighting those events of the year that warrant the attention of the Commission. The Com-enactment of a new bill of rights, the repeal of a repressive law, the elimination of some form of discrimination, or the development o new measures or agencies for protecting the civil rights of the citizen A short but precise summary of developments of this kind would b preferable to two or three hundred pages of statistics and footnotes Such a report could summarize or refer to more detailed reports o special subjects that had been transmitted to other organs of th United Nations or to the specialized agencies. The report would giv primary attention to the specific aspect of human rights selected fo study in accordance with the second proposal I shall place before you

Our draft resolution proposes that each member government establish a national advisory committee, composed of experienced an competent persons, to assist the Government in the preparation of th annual report. The purpose of this provision is to enable a governmen to supplement the data and to check the judgment of its own official with the independent data and judgment of responsible privat citizens. These citizens might be representatives of, or be in clos touch with, national nongovernmental organizations.

So far as the United States is concerned, we would envisage a smal advisory committee, perhaps of 8 or 10 outstanding citizens, who woul be appointed by the Secretary of State. This advisory committe would assist the Department of State and other Departments an Agencies of our Government in the preparation and review of th report. The Secretary of State would be responsible for the final tex of the annual report, but he would have had the benefit of the advic of a number of experienced and responsible American citizens.

The use by our Government of advisory committees of this natur has been highly successful in many different fields of activity. In ou preliminary conversations, our delegation has received one or tw suggestions that this technique may perhaps not be suitable to othe governments and might not be productive of good results. This i one of the many points on which I solicit the comments of othe Commission members.

The objective of this first proposal is not to create a system of reporting merely for the sake of reporting or for the sake of filing th reports away in some inaccessible file cabinet. The objective is t enable the Commission each year to review the state of observance o human rights in the world. Each year the Economic and Social Council reviews the economic state of the world; each year the Social Commission reviews the social state of the world. Our proposal woul enable this Commission to make an annual review of human right with special emphasis on some specific aspects of human rights, a we propose in our second draft resolution.

The second draft resolution before the Commission today (doc. E/CN.4/L.268) proposes that the Commission initiate a series of studie of specific aspects of human rights on a worldwide basis. We conside that it would not be sufficient for the Commission merely to undertak each year a general debate on the whole field of human rights, valuabl and novel though this would be. We consider that each year the Com subject and endeavor to discover just how well the world is observing and respecting that particular right.

The particular right which the Commission might study next year is of less importance to our delegation than the establishment of the program itself. The Commission might decide to take up each article of the Universal Declaration, one after another, and thus embark upon a 25-year plan. It might be more useful, in our opinion, for the Commission to begin, on an experimental basis, with some specific civil or political right that is fairly widely observed and is not involved in political controversy. The studies should not include topics which already are under consideration by some other organ of the United Nations or by one of the specialized agencies. For example, as its first subject, the Commission might select freedom of conscience and religion, the right to a fair trial, or freedom from arbitrary arrest and detention, or some other civil and political right which has not been, or is not being, considered elsewhere. These are merely suggestions, and other representatives may wish to suggest other subjects.

It is our thought that the Commission would require special assistance to do this kind of job well. In my opening statement, I had suggested that the Commission might appoint a rapporteur for this purpose. This was based on the long experience of the League of Nations and the more recent experiment of the Economic and Social Council in appointing a rapporteur to study the subject of freedom of information. After further consideration, and after consultation with other representatives of governments and organizations, our delegation concluded that it might be preferable to describe the person who would conduct this study in a somewhat different way and to provide for the appointment by the Secretary-General of an expert adviser for each study selected by the Commission. This expert adviser would be a person of high moral standing and of recognized competence in the particular subject selected—a person whose professional ability and whose objectivity would be beyond question. These are necessarily high qualifications but I feel confident that in every region of the world there are persons—scholars, jurists, statesmen—who could prepare a report such as we envisage on some particular subject and later assist the Commission in its consideration of the report.

The U.S. delegation proposes that the expert adviser on each subject should have access to a wide variety of information. This information would include information transmitted to the United Nations by member states, information published by the specialized agencies, information made available by nongovernmental organizations, and all other information in the possession of the Secretary-General, including communications received by the United Nations concerning human rights.

The U.S. delegation recognizes that it is making a novel and significant proposal in suggesting that the expert adviser should have access to communications received by the United Nations. Our delegation suggests that the expert adviser should use these communications the communications received on a particular subject against all the other information at his disposal. He would not, of course, undertake to review any particular case or report on it to the Commission He would take account of only the communications of a responsible character, disregarding those which were obviously of purely propaganda nature, or which were written to serve some unique persona nterest of its author. It is our thought that the expert adviser, afte studying all this wide variety of material, starting with the vast collection already available in the *Yearbook on Human Rights* and working his way through official reports and private communications would present the Commission with a digest of his findings. This would be a personal report made on his own responsibility, as a specialist, for which neither the United Nations nor any member government would have official responsibility. The Commission would then discuss the report and perhaps formulate some general conclusions upon it.

In our view, neither the expert adviser nor the Commission would try to find fault with individual countries nor try to condemn individual countries for their shortcomings. We hope that the discussion of the reports will not degenerate into mutual recriminations. Thei purpose, rather, will be—through the influence of publicity and publi opinion—to stimulate and induce improvement by each country The emphasis should be on progress and on measures needed t advance progress, not on errors of omission and commission.

The third draft resolution (doc. E/CN.4/L.267/Rev. 1) propose advisory services in the field of human rights. This draft resolution requires less explanation on my part, because it proposes the kind o technical assistance and advisory services that are already familia to all the members of this Commission. In our view, the regula technical-assistance program of the United Nations in the field o public administration and the social-welfare advisory services should be used as models for this new and closely related program of advisory services in the field of human rights. This program would build upon those already suggested by the General Assembly in the field o freedom of information, by our Sub-Commission in the field of dis crimination, and more recently by the Commission on the Status o Women.

Advisory services can take several forms. A country needing help can ask for the services of an expert or team of experts for a specific job. The job might be to draft laws to assure a free press, or t protect the interests of minority groups. Or the job might be t outline ways to bring newly enfranchised women to take a mor ctive part in national and community affairs.

Some countries will need help in training young people seeking careers in the human-rights field. If the professional training is no vailable in their own country, the United Nations can help provid for study abroad through scholarships and fellowships.

Still another useful advisory service is the international seminar with common problems.

The U.S. Government considers that respect for and observance of human rights can best be advanced through the processes of discussion, persuasion, education, and exchange of information. The progress already made by the United Nations and the specialized agencies in the use of technical assistance and advisory services in promoting economic and social development gives vitality to these international organizations and hope to millions of persons throughout the world. Our proposal would merely extend these techniques to the whole field of human rights. It would merely apply these proven techniques to a wider variety of subjects.

These activities could not and should not be carried on solely by the United Nations. They should be supplemented by similar activities by nongovernmental agencies. For this reason, our draft resolution concludes by urging international and national nongovernmental organizations, universities, philanthropic organizations, and other private groups to supplement this U.N. program with similar programs designed to further the exchange of information and assistance in the field of human rights.

There is one problem, common to all three of our draft resolutions, that deserves careful consideration by the Commission—that is, the relation of these three proposals and, indeed, of any similar programs initiated by the Commission, to the work already being undertaken by other organs of the United Nations and by the specialized agencies. It is essential, of course, that there be a minimum of duplication of effort by these various bodies. Our delegation has tried to avoid any such duplication. It may well be, however, that we have not yet been entirely successful in this regard and we should welcome the suggestions of other representatives, the Secretariat, and the specialized agencies on this important and difficult point.

Mr. Chairman, I should like to conclude with the general observation that these draft resolutions are submitted by our delegation as the basis for a constructive program for the future of this Commission. These draft resolutions are necessarily tentative and incomplete in scope. They are designed to serve as a basis of discussion and as an outline of what, in our judgment, the Commission should do in the future to advance the cause of liberty to which its members are devoted. Our delegation now places these draft resolutions before the Commission for its consideration. I welcome the observations of other representatives, of the Secretariat, of the specialized agencies, and of the nongovernmental organizations; and I shall gladly attempt to revise these draft resolutions to accommodate the views or suggestions here expressed, so far as this can be done consistent with the underlying purposes of these resolutions.

These proposals have been drawn up in recognition of the values to which the Secretary of State, John Foster Dulles, referred in the letter which he wrote to me before I left the United States to attend this session of the Commission: "The value of bringing the facts to in the international forum of the Commission on Human Rights, and . . . the value of each country drawing on the experience of othe countries for inspiration and practical guidance in solving its own problems." It is our profound hope that these draft resolutions wil help to enable the Commission—and the world—to move forward toward the goals laid down in the charter and in the Universal Declaration of Human Rights. We believe that this three-point program can be effective in advancing human rights in our time.

18. TEXTS OF UNITED STATES DRAFT RESOLUTIONS, MAY 7, 1953 [1]

DRAFT RESOLUTION ON ANNUAL REPORTS

U.N. doc. E/CN.4/L.266
Dated May 7, 1953

The Commission on Human Rights

Recommends that the Economic and Social Council request the General Assembly to adopt the following resolution:

"The General Assembly

Considering that by Articles 55 and 56 of the Charter the Members of the United Nations have pledged to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex language or religion;

Considering that the Universal Declaration of Human Rights set forth the goals toward which all Members of the United Nation should strive in the promotion of human rights and that the Declaration has inspired governments and peoples in the writing of thei constitutions and laws;

Desiring to advance as rapidly as possible respect for, and observance of, human rights and fundamental freedoms and to stimulate Membe Governments to press forward toward attaining the goals set forth i the Universal Declaration of Human Rights;

Desiring to obtain from each Member of the United Nation information about developments and achievements in the field o liberty; and

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[1] Department of State *Bulletin*, June 15, 1953, pp. 847–848.

These drafts were briefly discussed by the commission, then referred to th Economic and Social Council with the suggestion that they be forwarded t member states and to the specialized agencies for comments. Under Counc Res. 501 C (XVI), several Members, ILO, and UNESCO made comments. Th General Assembly in Res. 739 (*infra*) requested a continuation of the study of th draft resolutions and the preparation of recommendations for the Economic an Social Council. See Commission on Human Rights, *Report of the Eleventh Session 5–29 April 1955;* Economic and Social Council, *Official Records, Twentieth Session Supplement No. 6* (E/2731 and Corr. 1), pp. 22–23.

Bearing in mind the special responsibilities of other organs of the United Nations and of the Specialized Agencies in the promotion of human rights,

1. *Recommends* that each Member transmit each year to the Secretary-General a report on developments and achievements in the field of human rights in its country for consideration by the Commission on Human Rights, such report

(*a*) to summarize, or make reference to, any relevant portions of reports already submitted to another organ of the United Nations or to a Specialized Agency; and
(*b*) to give primary attention to the specific aspect of human rights currently selected for study by the Commission in accordance with Resolution ——;

2. *Recommends* that each Member establish a national advisory committee, composed of experienced and competent persons, to assist its Government in the preparation of its annual report;

3. *Requests* the Secretary-General to prepare a brief summary and analysis of the annual reports upon a topical basis;

4. *Recommends* that the Economic and Social Council request the Commission on Human Rights to consider these annual reports and the Secretary-General's summary and analysis at the same time that it considers the studies submitted by the Expert Adviser appointed in accordance with Resolution —, and to transmit to the Economic and Social Council such comments and conclusions thereon as it deems appropriate; and

5. *Recommends* that the Economic and Social Council make suitable arrangements with the Specialized Agencies to co-operate in carrying out this resolution and to avoid duplication of effort."

DRAFT RESOLUTION ON SPECIFIC ASPECTS OF HUMAN RIGHTS

U.N. doc. E/CN.4/L.268
Dated May 7, 1953

The Commission on Human Rights

Desiring to strengthen the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms on a world-wide basis;

Desiring to give special attention in future sessions to studies of specific aspects of human rights; and

Desiring to obtain for its consideration, a summary and analysis of the information available from Member States, the Specialized Agencies, Non-Government Organizations, and other sources on specific aspects of human rights;

Bearing in mind the special responsibilities of the Specialized Agencies as regards certain human rights;

1. *Decides* to initiate a series of studies of specific aspects of huma rights on a world-wide basis;

2. *Decides* that at each session the Commission shall select specific subject or specific subjects for study, provided that no subjec shall be selected which is under consideration by another organ o the United Nations or by the Specialized Agencies.

3. *Requests* the Secretary-General to appoint as an Expert Advise for each subject selected by the Commission for study, a person o high moral standing and of recognized competence in the particula subject, who shall

(*a*) prepare the study in his own name and under his own responsibility, with such assistance from the Secretariat as he may require, an

(*b*) assist the Commission in its consideration of the study;

4. *Authorizes* the Expert Advisers, in the preparation of thei studies, to have access to the following sources of information:

(*a*) information transmitted to the United Nations by Membe States;

(*b*) information published by the Specialized Agencies;

(*c*) information made available by Non-Governmental Organizations having consultative status with the Economic and Socia Council; and

(*d*) all other information in the possession of the Secretary-General including communications received by the United Nations concernin human rights, subject to paragraphs (a) and (b) of Resolution 75 (V of the Economic and Social Council, as amended, concerning th identity of communications; and

5. *Recommends* that the Economic and Social Council

(*a*) make suitable arrangements with the Specialized Agencies t cooperate in carrying out this resolution and to avoid duplicatio of effort; and

(*b*) adopt the following draft resolution:

"The Economic and Social Council

1. *Approves* the decisions of the Commission on Human Right concerning the initiation of studies of specific aspects of human rights and

2. *Amends* Resolution 75 (V),[1] as amended, to authorize the Exper Advisers to have access to the communications in the possession o the Secretary-General for the purpose of taking them into accoun in preparing these studies."

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[1] Resolution of Aug. 5, 1947; *Resolutions Adopted by the Economic and Socia Council During Its Fifth Session from 19 July to 16 August 1947* (E/573), p. 20.

U.N. doc. E/CN.4/L.267/Rev. 1
Dated May 7, 1953

The Commission on Human Rights

Considering that by Articles 55 and 56 of the United Na the Members of the United Nations have pledged t promote universal respect for, and observance of, h and fundamental freedoms for all without distinction as language, or religion;

Recognizing that advisory services, by the internationa of technical knowledge through international co-oper countries, represents an effective means for the prom human rights objectives of the United Nations Char Universal Declaration of Human Rights;

Taking note of Resolution 633 (VII)[1] of the Gener which requests the Secretary-General to elaborate a p action for the development of domestic information in und countries;

Taking note of the proposals on technical assistance Sub-Commission on the Prevention of Discrimination an tion of Minorities (E/CN.4/670, Annex I, Resolution Commission on the Status of Women (E/CN.6/L.106/R

Taking account of the arrangements previously establ General Assembly concerning the regular technical as gramme and the advisory services of the United Nations 200 (III),[2] 305 (IV),[3] and 418 (V));[4]

Considering that the Specialized Agencies, within thei and by virtue of their regular programmes and their grammes of technical assistance, are already renderin services to their Members with a view to ensuring observance of human rights;

Recommends that the Economic and Social Council General Assembly to adopt the following resolutions:

"The General Assembly

A. *Authorizes* the Secretary-General:

1. Subject to the directions of the Economic and So to make provision for the following services, with the of the Specialized Agencies where appropriate and withou of their existing services, and in consultation with non-

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[1] Resolution of Dec. 16, 1952; General Assembly, *Official Recor sion, Supplement No. 20* (A/2361), pp. 24–25.

[2] Resolution of Dec. 4, 1948; *ibid., Third Session, Part I, Resol* pp. 38–40.

[3] Resolution of Nov. 16, 1949; *ibid., Fourth Session, Resolutions*

[4] Resolution of Dec. 1, 1950; *ibid., Fifth Session, Supplement N* pp. 40–41.

organizations having consultative status, the subjects listed in paragraph E below:

(*a*) To appoint experts to provide advisory services at the reques of Governments which show the need for them;
(*b*) To enable suitably qualified persons to observe, and familiarize themselves with, the experience and practice of other countries;
(*c*) To enable suitably qualified persons who cannot receive professional training in their country to receive appropriate training in foreign countries having the necessary facilities for such training and
(*d*) To plan and conduct seminars; and

2. To include in his budgetary estimates of the United Nation the sums necessary for carrying out an effective operational programme based on the provision of the above services;

B. *Requests* the Secretary-General to undertake the performance o the services as provided in A.1 above, in agreement with the Governments concerned, on the basis of requests received from Governments and in accordance with the following policies:

1. The kind of service to be rendered to each country under A.1 (a shall be acceptable to the Government concerned and shall be determined in consultation with that Government;
2. The selection of the persons under A.1 (b) and (c) shall be mad by the Secretary-General on the basis of proposals received from Governments, which shall indicate their preferences with regard to host countries, and shall be acceptable to the host countries; and
3. The amount of services and the conditions under which they are to be rendered shall be decided by the Secretary-General with due regard to the greater needs of the under-developed areas and in conformity with the principle that each requesting Government shall be expected to assume responsibility, as far as possible, for all or a considerable part of the expenses connected with the services furnished to it, either by making a contribution in cash, or in the form o services for the purposes of the programme being carried out;

C. *Requests* the Secretary-General to report regularly to the Commission on Human Rights and as appropriate to the Commission on the Status of Women on the measures which he takes in compliance with the terms of this resolution, and to request these Commissions to formulate recommendations from time to time concerning the continued action required to carry on these advisory services;

D. *Recommends* that the Specialized Agencies continue to develop their technical assistance services with a view to aiding Members to ing voting and public office;

(*d*) Increased participation in national and community civic affairs, especially for women recently granted the vote;

(*e*) Abolishing slavery and institutions and practices akin thereto;

(*f*) Legislative and other measures for the prevention of discrimination and the protection of minorities; and

(*g*) Establishment of non-governmental and governmental bodies for the protection of civil rights;

F. *Invites* the Specialized Agencies to communicate to the Economic and Social Council, for transmission to the Commission on Human Rights, any observations which they might find appropriate on the above services and on any new measures of assistance which they may deem necessary with a view to assisting Members in ensuring the effective observance of human rights; and

G. *Urges* international and national non-governmental organizations, universities, philanthropic foundations, and other private groups to supplement this United Nations programme with similar programmes designed to further research and studies, the exchange of information, and assistance in the field of human rights."

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19. RESOLUTION 739 (VIII) OF THE GENERAL ASSEMBLY, NOVEMBER 28, 1953 [1]

The General Assembly,

Considering that, under Articles 55 and 56 of the Charter, the Members of the United Nations have pledged themselves to take joint and separate action to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Desiring to advance as rapidly as possible respect for, and observance of, human rights and fundamental freedoms and to stimulate Member States to press forward toward attaining the goals set forth in the Universal Declaration of Human Rights,

Noting that the Commission on Human Rights, at its ninth session, considered three draft resolutions [2] concerning the development of the work of the United Nations for wider observance of, and respect for, human rights and fundamental freedoms throughout the world,

Noting that the Economic and Social Council, in resolution 501 C (XVI) of 3 August 1953,[3] requested Member States and specialized agencies to submit their comments on the draft resolutions and the amendments thereto to the Secretary-General in so far as possible by 1 October 1953,

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630), p. 19.

[2] *Supra.*

[3] Economic and Social Council, *Official Records, Sixteenth Session, Supplement No. 1* (E/2508), pp. 11 ff.

Requests the Economic and Social Council to ask the Commission on Human Rights:

(*a*) To consider, at its tenth session, the three draft resolution concerning the development of the work of the United Nations fo wider observance of, and respect for, human rights and fundamenta freedoms throughout the world, and to prepare, if possible, to supplement the provisions of the Covenants on Human Rights, recommendations thereon, in order that these recommendations may be considere by the Economic and Social Council at its eighteenth session;

(*b*) To take account, at its tenth session, of the comments made b Member States and specialized agencies and of the views expresse on this subject at the eighth session of the General Assembly.[1]

20. RESOLUTION 833 (IX) OF THE GENERAL ASSEMBLY DECEMBER 4, 1954 [2]

The General Assembly,

Taking note of the draft international covenants on human rights prepared by the Commission on Human Rights and transmitted by the Economic and Social Council and expressing its gratitude t that Commission for the work accomplished,

Having considered these draft international covenants on huma rights at its ninth session,

Reaffirming that it is important that these draft internationa covenants should be adopted in their final form as soon as possibl

Considering that it is desirable to give Governments of State Members and non-members of the United Nations and the specialize agencies time to make a full study of these draft international cove

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[1] The U.S. Representative presented the three draft resolutions in revised for to the tenth session of the commission. After short debate, they were placed o the agenda of the eleventh session (1955), where they were discussed in at leas four meetings, along with further revisions proposed by the United States. Fo observations on the resolutions and actions by the commission, see Commission o Human Rights, *Report of the Eleventh Session*, *op. cit.*, pp. 22–28.

[2] General Assembly, *Official Records, Ninth Session, Supplement No. 21* (A/2890) p. 20.

The "Draft International Covenants" were seriously considered at the nint (1953) and tenth (1954) sessions of the Commission on Human Rights. Th eleventh session (1955) was devoted largely to the study of specific aspects o human rights. The Third Committee of the General Assembly, however, gav some attention to an article-by-article consideration of the "drafts," along wit the human rights "action program" proposed by the United States in 1953 (se *supra*, docs. 16 and 17). On Dec. 14, 1955, the General Assembly in plenar nants and to submit, if they so desire, amendments or additions thereto, or further observations thereon,

Considering that it is desirable for each Government to be informed in good time of the views of other Governments and of the specialized agencies concerning the provisions to be included in the draft international covenants on human rights so that it may take due account of these views in determining its own attitude,

Considering that it is desirable that public opinion should continue to express itself freely on the draft international covenants on human rights,

1. *Invites:*

(*a*) Governments of States Members and non-members of the United Nations to communicate to the Secretary-General, within six months after the end of the present session of the General Assembly, any amendments or additions to the draft international covenants on human rights or any observations thereon;

(*b*) The specialized agencies to communicate to the Secretary-General, within six months after the end of the present session, any observations they may wish to make with regard to the draft international covenants on human rights;

(*c*) The non-governmental organizations concerned with the promotion of human rights, including those in the Non-Self-Governing and Trust Territories, to stimulate public interest in the draft international covenants on human rights by all possible means in their respective countries;

2. *Requests* the Secretary-General:

(*a*) To prepare and distribute to Governments, as early as possible, a concise annotation of the text of the draft international covenants on human rights, taking account of the observations made before and during the ninth session of the General Assembly, including those made in the Economic and Social Council and in the Commission on Human Rights;

(*b*) To distribute to Governments, as soon as they are received, the communications which may be made by Governments and by the specialized agencies during the next six months;

(*c*) To prepare as a working paper a compilation of all the amendments and proposed new articles which may be submitted by Governments during that period;

3. *Requests* the Secretary-General to give the draft international covenants on human rights the widest possible publicity through all

21. EDUCATION FOR RESPONSIBILITIES OF SELF-GOVERNMENT: Resolution 437 (V) of the General Assembly, Decembe 2, 1950 [2]

The General Assembly,

Considering that the promotion of educational advancement of the inhabitants of Trust Territories is essential for their progressiv development as early as possible towards self-government or independence,

Recognizing that, while notable progress has already been achieved in the educational development of the Trust Territories, considerabl efforts are still required in this field,

Considering that the establishment, in so far as is practicable, o comprehensive and long-range plans to achieve such educationa development is desirable,

1. *Recommends* that the Trusteeship Council continue to devote particular attention, in consultation with the Administering Authorities and the specialized agencies, to long-range programmes of educational development in the Trust Territories, with a view to enablin the inhabitants of those Territories to take over the responsibilitie of complete self-government at the earliest possible date;

2. *Requests* that the Trusteeship Council include in its annua reports to the General Assembly its observations on the variou long-range educational programmes undertaken in the Trust Territories, and the progress made in respect thereof.

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22. CESSATION OF TRANSMISSION OF INFORMATION ON PUERTO RICO: Resolution 748 (VIII) of the General Assembly November 27, 1953 [3]

The General Assembly,

Considering that, in resolution 222 (III) of 3 November 1948,[4] th General Assembly, while welcoming any development of self-govern

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[1] Documentation on the former Japanese Mandated Islands, the Caribbea Commission, and the South Pacific Commission is printed in *A Decade of America Foreign Policy*, pp. 1025–1057.

[2] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775) p. 52.

[3] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630) pp. 25–26.

[4] *United States Participation in the United Nations: Report by the President t the Congress for the Year 1948 on the Activities of the United Nations and the Partici pation of the United States Therein* (Department of State publication 3437; 1949) pp. 212–217.

United Nations be informed of any change in the constitutiona status of any such Territory as a result of which the governmen responsible for the transmission, under Article 73e of the Charter of information in respect of that Territory thinks it unnecessary o inappropriate to continue such a practice,

Having received the communications [1] dated 19 January and 2 March 1953 informing the United Nations of the establishment of th Commonwealth of Puerto Rico, as a result of the entry into force o 25 July 1952 of the Constitution of Puerto Rico, and stating that, i consequence of these constitutional changes, the Government of th United States of America would cease to transmit information unde Article 73e of the Charter,

Having studied the report [2] prepared by the Committee on Information from Non-Self-Governing Territories, during its session of 1953, on the question of the cessation of the transmission of information o Puerto Rico, and presented to the General Assembly in conformit with paragraph 2 of resolution 448 (V) of 12 December 1950,[3]

Having examined the communications of the Government of th United States of America in the light of the basic principles embodied in Chapter XI of the Charter and of all the other elements of judgment pertinent to the issue,

Considering that the agreement reached by the United States o America and the Commonwealth of Puerto Rico, in forming a political association which respects the individuality and the cultural characteristics of Puerto Rico, maintains the spiritual bonds between Puerto Rico and Latin America and constitutes a link in continental solidarity,

Bearing in mind the competence of the General Assembly to decide whether a Non-Self-Governing Territory has or has not attained a full measure of self-government as referred to in Chapter XI of the Charter,

1. *Takes note favourably* of the conclusions set forth by the Committee on Information from Non-Self-Governing Territories in its resolution;[4]

2. *Recognizes* that the people of the Commonwealth of Puerto Rico, by expressing their will in a free and democratic way, have achieved a new constitutional status;

3. *Expresses the opinion* that it stems from the documentation provided that the association of the Commonwealth of Puerto Rico with the United States of America has been established as a mutually agreed association;

4. *Recognizes* that, when choosing their constitutional and international status, the people of the Commonwealth of Puerto Rico have effectively exercised their right to self-determination;

5. *Recognizes* that, in the framework of their Constitution and of the

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[1] U.N. doc. A/AC.35/L.121.

[2] General Assembly, *Official Records, Eighth Session, Supplement No. 15* (A/2465), part I, sec. VII.

[3] *Ibid., Fifth Session, Supplement No. 20* (A/1775), p. 55.

[4] *Ibid., Eighth Session, Supplement No. 15* (A/2465), p. 6.

he Commonwealth of Puerto Rico have been invested with attri- es of political sovereignty which clearly identify the status of self- ernment attained by the Puerto Rican people as that of an autono- is political entity;

. *Considers* that, due to these circumstances, the Declaration re- ding Non-Self-Governing Territories and the provisions established er it in Chapter XI of the Charter can no longer be applied to the nmonwealth of Puerto Rico;

. *Takes note* of the opinion of the Government of the United States merica as to the cessation of the transmission under Article 73e of Charter of information on Puerto Rico;

Considers it appropriate that the transmission of this information ild cease;

Expresses its assurance that, in accordance with the spirit of the ent resolution, the ideals embodied in the Charter of the United ions, the traditions of the people of the United States of America the political advancement attained by the people of Puerto Rico, regard will be paid to the will of both the Puerto Rican and erican peoples in the conduct of their relations under their present l statute, and also in the eventuality that either of the parties to mutually agreed association may desire any change in the terms his association.

RIGHT OF PEOPLES AND NATIONS TO SELF-DETER- IINATION: Resolution 637 (VII) of the General Assembly, ecember 16, 1952 [1]

A

'hereas the right of peoples and nations to self-determination is a equisite to the full enjoyment of all fundamental human rights,

'hereas the Charter of the United Nations, under Articles 1 and 55, s to develop friendly relations among nations based on respect for equal rights and self-determination of peoples in order to strengthen ersal peace,

'hereas the Charter of the United Nations recognizes that certain nbers of the United Nations are responsible for the administration 'erritories whose peoples have not yet attained a full measure of government, and affirms the principles which should guide them,

'hereas every Member of the United Nations, in conformity with Charter, should respect the maintenance of the right of self- rmination in other States,

he General Assembly recommends that:

The States Members of the United Nations shall uphold the ciple of self-determination of all peoples and nations;

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[1] ieneral Assembly, *Official Records, Seventh Session, Supplement No. 20* 361), pp. 26–27.

2. The States Members of the United Nations shall recognize and promote the realization of the right of self-determination of the peoples of Non-Self-Governing and Trust Territories who are under their administration and shall facilitate the exercise of this right by the peoples of such Territories according to the principles and spirit of the Charter of the United Nations in regard to each Territory and to the freely expressed wishes of the peoples concerned, the wishes of the people being ascertained through plebiscites or other recognized democratic means, preferably under the auspices of the United Nations;

3. The States Members of the United Nations responsible for the administration of Non-Self-Governing and Trust Territories shall take practical steps, pending the realization of the right of self-determination and in preparation thereof, to ensure the direct participation of the indigenous populations in the legislative and executive organs of government of those Territories, and to prepare them for complete self-government or independence.

B

The General Assembly,

Considering that one of the conditions necessary to facilitate United Nations action to promote respect for the right of self-determination of peoples and nations, in particular with regard to the peoples of Non-Self-Governing Territories, is that the competent organs of the United Nations should be in possession of official information on the government of these Territories,

Recalling its resolution 144 (II) of 3 November 1947 [1] in which it declared that the voluntary transmission of such information was entirely in conformity with the spirit of Article 73 of the Charter, and should therefore be encouraged,

Recalling its resolution 327 (IV) of 2 December 1949 [2] in which it expressed the hope that such of the Members of the United Nations as had not done so might voluntarily include details on the government of Non-Self-Governing Territories in the information transmitted by them under Article 73e of the Charter,

Considering that at the present time such information has not yet been furnished in respect of a large number of Non-Self-Governing Territories,

1. *Recommends* States Members of the United Nations responsible for the administration of Non-Self-Governing Territories voluntarily to include in the information transmitted by them under Article 73e of the Charter details regarding the extent to which the right of peoples and nations to self-determination is exercised by the peoples of those

its next session in 1953.

C

The General Assembly,

Considering that it is necessary to continue the study of ways an means of ensuring international respect for the right of peoples t self-determination,

Considering that the recommendations it has adopted at its sevent session do not represent the only steps that can be taken to promot respect for such right,

1. *Requests* the Economic and Social Council to ask the Commissio on Human Rights to continue preparing recommendations concernin international respect for the right of peoples to self-determination and particularly recommendations relating to the steps which migh be taken, within the limits of their resources and competence by the various organs of the United Nations and the specialize agencies to develop international respect for the right of peoples t self-determination;

2. *Requests* the Commission on Human Rights to submit throug the Economic and Social Council its recommendations to the Genera Assembly.

24. ATTAINMENT OF SELF-GOVERNMENT OR INDEPENDENCE: Resolutions 558 (VI), 752 (VIII), 858 (IX), and 946 (X of the General Assembly, 1952–1955

A) Resolution 558 (VI), January 18, 1952[1]

The General Assembly,

Considering that in the case of only one Trust Territory, namel Somaliland under Italian administration, the Trusteeship Agreemen provides, in accordance with General Assembly resolution 289A (IV of 21 November 1949,[2] for a specific period of ten years at the en of which the Trust Territory shall be an independent sovereign State

Considering that under Article 76b of the Charter one of the basi objectives of the International Trusteeship System is the progressiv development of the inhabitants of the Trust Territories towards self government or independence as may be appropriate to the particula circumstances of each Territory and its peoples and the freely expresse wishes of the peoples concerned, and as may be provided in the term of each Trusteeship Agreement,

1. *Notes*, that in the case of no Trust Territory other than that o Somaliland has the Administering Authority concerned submitte information as to the time and manner in which the Territory i

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[1] General Assembly, *Official Records, Sixth Session, Supplement No. 20* (A/2119) pp. 57–58.

[2] *Ibid., Fourth Session, Resolutions* (A/1251), pp. 10–12.

and accordingly,

2. *Invites* the Administering Authority of each Trust Territory other than Somaliland to include in each annual report on its administration information in respect of:

(*a*) The measures, taken or contemplated, which are intended to lead the Trust Territory, in the shortest possible time, to the objective of self-government or independence;

(*b*) The manner in which, in these respects, the particular circumstances of the Territory and its people and the freely expressed wishes of the peoples concerned are being taken into account;

(*c*) The adequacy of the provisions of the existing Trusteeship Agreement in relation to all the foregoing factors;

(*d*) The rough estimate of the time which it considers, under existing conditions, may be needed to complete one or more of the various measures which are meant to create the pre-conditions for the attainment by the Trust Territory of the objective of self-government or independence;

(*e*) The period of time in which it is expected that the Trust Territory shall attain the objective of self-government or independence.

B) RESOLUTION 752 (VIII), DECEMBER 9, 1953 [1]

The General Assembly,

Recalling its resolution 558 (VI) of 18 January 1952 [2] by which it invited the Administering Authority of each Trust Territory other than Somaliland under Italian administration to include in each annual report information concerning measures taken or contemplated towards self-government or independence and, *inter alia*, the estimated period of time required for such measures and for the attainment of the ultimate objective,

Having received from the Administering Authorities concerned annual reports covering periods subsequent to 18 January 1952 in respect of all except one of the Trust Territories, namely, the Territories of Western Samoa, New Guinea, Nauru, Tanganyika, Ruanda-Urundi, Togoland under British administration, Togoland under French administration and the Cameroons under French administration,

Noting that the Administering Authorities have not provided in these annual reports the information requested in resolution 558 (VI),

Noting, however, that the Administering Authority of Western Samoa has declared its intention to initiate in 1954 consultations among the representatives of the inhabitants leading to the establishment of a self-governing State,

1. *Reaffirms* resolution 558 (VI) of 18 January 1952;

2. *Commends* to the Administering Authorities of the other Trust Territories the example provided by the Administering Authority of

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630), p. 30.

[2] *Supra.*

nulate proposals for the establishment of a self-governing State;

Requests the Trusteeship Council to include in its next and suc- ling reports to the General Assembly a separate section dealing 1 the implementation of resolution 558 (VI) and the present resolu- , specifying in particular the measures taken in respect of:

ı) Consultations with the inhabitants of each Trust Territory in ırd to the measures taken or contemplated towards self-govern- ıt;

) The development in each Trust Territory of representative, cutive and legislative organs and the extension of their powers;

:) The development in each Trust Territory of universal adult rage and direct elections;

l) The training and appointment of indigenous persons in each st Territory for positions of responsibility in the administration;

) The development of adequate public revenue; and stating in 1 case its conclusions and recommendations in the light of resolution (VI) and the present resolution.

C) RESOLUTION 858 (IX), DECEMBER 14, 1954 [1]

he General Assembly,

ecalling its resolution 558 (VI) of 18 January 1952 by which it ted the Administering Authority of each Trust Territory, other Somaliland under Italian administration, to include in each ual report information concerning measures taken or contemplated ards self-government or independence and, *inter alia*, the estimated d of time required for such measures and for the attainment of ultimate objective,

ecalling further its resolution 752 (VIII) of 9 December 1953 by ch it requested the Trusteeship Council to include in its next and ceeding reports to the General Assembly a separate section dealing 1 the implementation of resolutions 558 (VI) and 752 (VIII), cifying the various measures taken or contemplated towards self- ernment or independence and stating in each case its conclusions recommendations in the light of these resolutions,

onsidering that one of the most effective means of assisting the ples of the Trust Territories to achieve the objectives set forth in cle 76b of the Charter is to provide them with an opportunity to ıin experience in the work of government and administration by ticipation in representative bodies with adequate powers to carry such work,

Notes with satisfaction that, in response to the request of the eral Assembly, the Trusteeship Council has included in its report ering the period from 22 July 1953 to 16 July 1954 a separate sec- [2] dealing with the attainment by the Trust Territories of the ective of self-government or independence;

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[1] General Assembly, *Official Records, Ninth Session, Supplement No. 21* (A/2890), 31–32.

2. *Notes, however,* that the Council has not formulated in this report any conclusions or recommendations on the measures taken or contemplated towards self-government or independence;

3. *Expresses the hope* that the Council will include its conclusions and recommendations on this question in its next and succeeding reports to the General Assembly;

4. *Recommends* that the Council instruct its visiting missions to give special attention in their reports to the Council to the question of attainment by the Trust Territories of self-government or independence in the light of resolutions 558 (VI) and 752 (VIII) and of the present resolution;

5. *Recommends* to the Administering Authorities that, as a means to facilitate an approximate determination of the date on which the populations of the Trust Territories would be prepared for self-government or independence, they should intensify their efforts to the utmost to bring about the establishment of new representative organs of government and administration in the Trust Territories, with increasing participation therein by indigenous elements of those Territories, or to develop on the same basis organs of that type already in existence; that they should ensure that the nature and powers of these organs reflect the special status conferred on the Trust Territories by Chapter XII of the Charter and by the Trusteeship Agreements; and that they should hasten the attainment of the objectives set forth in Article 76 of the Charter.

D) RESOLUTION 946 (X), DECEMBER 15, 1955 [1]

The General Assembly,

Recalling that, by its resolutions 558 (VI) of 18 January 1952, 752 (VIII) of 9 December 1953 and 858 (IX) of 14 December 1954, it invited the Administering Authority of each Trust Territory, other than Somaliland under Italian administration, to include in each annual report information concerning measures taken or contemplated towards self-government or independence, and estimates of the periods of time required for such measures, and requested the Trusteeship Council to include in each of its reports to the General Assembly a separate section dealing with the subject and stating in each case its conclusions and recommendations,

Noting with regret the omission from the report [2] of the Council covering the period from 17 July 1954 to 22 July 1955 of the separate section envisaged by the above-mentioned resolutions,

Noting further that the Council, by its resolution 1254 (XVI) of 19 July 1955, decided to instruct each of its drafting committees on the annual reports concerned, beginning from its seventeenth session, which the General Assembly continues to attach to the question o the attainment by the Trust Territories of the objective of self government or independence;

2. *Requests* the Council to ensure that the procedure devised by i for dealing in future with this question will enable it to comply fully with the terms of the relevant General Assembly resolutions and accordingly, to include in its next and succeeding reports to th Assembly a separate section containing the information indicated i those resolutions and the conclusions and recommendations of th Council thereon.

25. FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE OR OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT: Resolution 742 (VIII) (with Annex) of the General Assembly, November 27, 1953 [1]

The General Assembly,

Bearing in mind the principles embodied in the Declaration regarding Non-Self-Governing Territories and the objectives set forth i Chapter XI of the Charter,

Recalling the provisions of resolutions 567 (VI)[2] and 648 (VII), adopted by the General Assembly on 18 January and 10 Decembe 1952 respectively, indicating the value of establishing a list of factor which should be taken into account in deciding whether a Territory has or has not attained a full measure of self-government,

Having regard to the competence of the General Assembly to consider the principles that should guide the United Nations and the Member States in the implementation of obligations arising from Chapter XI of the Charter and to make recommendations in connexion with them,

Having examined the report[4] of the *Ad Hoc* Committee on Factor (Non-Self-Governing Territories) set up by resolution 648 (VII),

1. *Takes note* of the conclusions of the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories);

2. *Approves* the list of factors as adopted by the Fourth Committee

3. *Recommends* that the annexed list of factors should be used by the General Assembly and the Administering Members as a guide in determining whether any Territory, due to changes in its constitutional status, is or is no longer within the scope of Chapter XI of the Charter, in order that, in view of the documentation provided unde

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 1* (A/2630), pp. 21–23.

[2] *Ibid., Sixth Session, Supplement No. 20* (A/2119), pp. 60–62.

[3] *Ibid., Seventh Session, Supplement No. 20* (A/2361), pp. 33–35.

[4] See doc. A/2428. For the replies of governments indicating their views on th "factors," see docs. A/AC.67/2 (8 May 1953), A/AC.67/2/Corr. 1 (28 May 1953) A/AC.67/2/Add. 1 (11 June 1953), and A/AC.67/2/Add. 2 (30 June 1953). Fo the report of the Fourth Committee, see doc. A/2556 and Corr. 1 (17 Nov. 1953)

resolution 222 (III) of 3 November 1948, a decision may be taken by the General Assembly on the continuation or cessation of the transmission of information required by Chapter XI of the Charter;

4. *Reasserts* that each concrete case should be considered and decided upon in the light of the particular circumstances of that case and taking into account the right of self-determination of peoples;

5. *Considers* that the validity of any form of association between a Non-Self-Governing Territory and a metropolitan or any other country essentially depends on the freely expressed will of the people at the time of the taking of the decision;

6. *Considers* that the manner in which Territories referred to in Chapter XI of the Charter can become fully self-governing is primarily through the attainment of independence, although it is recognized that self-government can also be achieved by association with another State or group of States if this is done freely and on the basis of absolute equality;

7. *Reaffirms* that the factors, while serving as a guide in determining whether the obligations as set forth in Chapter XI of the Charter shall exist, should in no way be interpreted as a hindrance to the attainment of a full measure of self-government by a Non-Self-Governing Territory;

8. *Further reaffirms* that, for a Territory to be deemed self-governing in economic, social or educational affairs, it is essential that its people shall have attained a full measure of self-government;

9. *Instructs* the Committee on Information from Non-Self-Governing Territories to study any documentation transmitted hereafter under resolution 222 (III) in the light of the list of factors approved by the present resolution, and other relevant considerations which may arise from each concrete case of cessation of information;

10. *Recommends* that the Committee on Information from Non-Self-Governing Territories take the initiative of proposing modifications at any time to improve the list of factors, as may seem necessary in the light of circumstances.

ANNEX

List of Factors

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE OR OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

First part

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE

A. *International status*

1. *International responsibility.* Full international responsibility of the Territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs.

. *Eligibility for membership in the United Nations.*
. *General international relations.* Power to enter into direct rela-
ıs of every kind with other governments and with international
itutions and to negotiate, sign and ratify international instruments.
. *National defence.* Sovereign right to provide for its national
ence.

Internal self-government

. *Form of government.* Complete freedom of the people of the
ritory to choose the form of government which they desire.
. *Territorial government.* Freedom from control or interference by
government of another State in respect of the internal government
islature, executive, judiciary, and administration of the Territory).
. *Economic, social and cultural jurisdiction.* Complete autonomy
spect of economic, social and cultural affairs.

Second part

TORS INDICATIVE OF THE ATTAINMENT OF OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

General

. *Opinion of the population.* The opinion of the population of the
ritory, freely expressed by informed and democratic processes, as
he status or change in status which they desire.
. *Freedom of choice.* Freedom of choosing on the basis of the right
elf-determination of peoples between several possibilities, including
ependence.
. *Voluntary limitation of sovereignty.* Degree of evidence that the
ibute or attributes of sovereignty which are not individually ex-
sed will be collectively exercised by the larger entity thus associated
the freedom of the population of a Territory which has associated
lf with the metropolitan country to modify at any time this status
ough the expression of their will by democratic means.
. *Geographical considerations.* Extent to which the relations of
Non-Self-Governing Territory with the capital of the metropolitan
ernment may be affected by circumstances arising out of their
pective geographical positions, such as separation by land, sea or
er natural obstacles; and extent to which the interests of boundary
tes may be affected, bearing in mind the general principle of good-
hbourliness referred to in Article 74 of the Charter.
. *Ethnic and cultural considerations.* Extent to which the popula-
ıs are of different race, language or religion or have a distinct cul-
l heritage, interests or aspirations, distinguishing them from the
ples of the country with which they freely associate themselves.
. *Political advancement.* Political advancement of the population
icient to enable them to decide upon the future destiny of the
ritory with due knowledge.

B. *International status*

1. *General international relations.* Degree or extent to whic
Territory exercises the power to enter freely into direct relatic
every kind with other governments and with international instit
and to negotiate, sign and ratify international instruments f
Degree or extent to which the metropolitan country is bound, th
constitutional provisions or legislative means, by the freely exp
wishes of the Territory in negotiating, signing and ratifying in
tional conventions which may influence conditions in the Terr

2. *Change of political status.* The right of the metropolitan co
or the Territory to change the political status of that Territory
light of the consideration whether that Territory is or is not s
to any claim or litigation on the part of another State.

3. *Eligibility for membership in the United Nations.*

C. *Internal self-government*

1. *Territorial government.* Nature and measure of control or
ference, if any, by the government of another State in respect
internal government, for example, in respect of the following:

Legislature: The enactment of laws for the Territory by an i
nous body whether fully elected by free and democratic proces
lawfully constituted in a manner receiving the free consent
population;

Executive: The selection of members of the executive branch
government by the competent authority in the Territory rec
consent of the indigenous population, whether that authority is h
tary or elected, having regard also to the nature and measure o
trol, if any, by an outside agency on that authority, whether di
or indirectly exercised in the constitution and conduct of the exe
branch of the government;

Judiciary: The establishment of courts of law and the select
judges.

2. *Participation of the population.* Effective participation
population in the government of the Territory: (*a*) Is there a
quate and appropriate electoral and representative system?
this electoral system conducted without direct or indirect interf
from a foreign government?

3. *Economic, social and cultural jurisdiction.* Degree of autc
in respect of economic, social and cultural affairs, as illustrated
degree of freedom from economic pressure as exercised, for exa
by a foreign minority group which, by virtue of the help of a f
Power, has acquired a privileged economic status prejudicial
general economic interest of the people of the Territory; and
degree of freedom and lack of discrimination against the indig
population of the Territory in social legislation and social de
ments.

Third part

FACTORS INDICATIVE OF THE FREE ASSOCIATION OF A TERRITORY O EQUAL BASIS WITH THE METROPOLITAN OR OTHER COUNTRY A AN INTEGRAL PART OF THAT COUNTRY OR IN ANY OTHER FORM

A. *General*

1. *Opinion of the population.* The opinion of the population of th Territory, freely expressed by informed and democratic processes, a to the status or change in status which they desire.

2. *Freedom of choice.* The freedom of the population of a Non Self-Governing Territory which has associated itself with the metropolitan country as an integral part of that country or in any other forn to modify this status through the expression of their will by democratic means.

3. *Geographical considerations.* Extent to which the relations o the Territory with the capital of the central government may b affected by circumstances arising out of their respective geographica positions, such as separation by land, sea or other natural obstacles The right of the metropolitan country or the Territory to change th political status of that Territory in the light of the consideratio whether that Territory is or is not subject to any claim or litigatio on the part of another State.

4. *Ethnic and cultural considerations.* Extent to which the population are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from th peoples of the country with which they freely associate themselves

5. *Political advancement.* Political advancement of the populatio sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.

6. *Constitutional considerations.* Association by virtue of a treat or bilateral agreement affecting the status of the Territory, takin into account (i) whether the constitutional guarantees extend equall to the associated Territory, (ii) whether there are powers in certai matters constitutionally reserved to the Territory or to the centra authority, and (iii) whether there is provision for the participation o the Territory on a basis of equality in any changes in the constitutiona system of the State.

B. *Status*

1. *Legislative representation.* Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. *Participation of the population.* Effective participation of th population in the government of the Territory: (*a*) Is there an adequate and appropriate electoral and representative system? (*b*) I

this electoral system conducted without direct or indirect interference from a foreign government?[1]

3. *Citizenship.* Citizenship without discrimination on the same basis as other inhabitants.

4. *Government officials.* Eligibility of officials from the Territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

C. *Internal constitutional conditions*

1. *Suffrage.* Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.[2]

2. *Local rights and status.* In a unitary system equal rights and status for the inhabitants and local bodies of the Territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

3. *Local officials.* Appointment or election of officials in the Territory on the same basis as those in other parts of the country.

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[1] (Footnote in original:) For example, the following questions would be relevant:

(i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the government of the Territory?

(ii) Is this power exercised freely, i. e., is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties?

Some tests which can be used in the application of this factor are as follows:

(*a*) The existence of effective measures to ensure the democratic expression of the will of the people;

(*b*) The existence of more than one political party in the Territory;

(*c*) The existence of a secret ballot;

(*d*) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(*e*) The existence for the individual elector of a choice between candidates of differing political parties;

(*f*) The absence of "martial law" and similar measures at election times;

(iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day?

[2] (Footnote in original:) For example, the following tests would be relevant:

(*a*) The existence of effective measures to ensure the democratic expression of the will of the people;

(*b*) The existence of more than one political party in the Territory;

(*c*) The existence of a secret ballot;

(*d*) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;

(*e*) The existence for the individual elector of a choice between candidates of differing political parties;

(*f*) The absence of "martial law" and similar measures at election times;

(*g*) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day.

4. *Internal legislation.* Local self-government of the same scop and under the same conditions as enjoyed by other parts of th country.

5. *Economic, social and cultural jurisdiction.* Degree of autonom in respect of economic, social and cultural affairs, as illustrated by th degree of freedom from economic pressure as exercised, for example by a foreign minority group which, by virtue of the help of a foreig Power, has acquired a privileged economic status prejudicial to th general economic interest of the people of the Territory; and by th degree of freedom and lack of discrimination against the indigenou population of the Territory in social legislation and social developments.

Expanded Program of Technical Assistance

[Under Resolution 180 (VIII) of March 4, 1949,[1] the Economic and Social Council requested the Secretary-General to p
eport for the ninth session of the Council setting forth (1) "a comprehensive plan for an expanded cooperative programme of
ssistance for economic development through the United Nations and its specialized agencies"; (2) "methods of financing su
ramme", and (3) "ways of coordinating the planning and execution of the programme". On the consideration of the repo
cretary-General, the Council, under Resolution 222 (IX) of August 15, 1949,[2] provided for the initiation and execution o
rogram. This action was approved by the General Assembly in Resolution 304 (IV) of November 16, 1949.[3] The General A
d previously approved Resolutions 200 (III), "Technical Assistance for Economic Development"; [4] 246 (III), "International
or the Promotion of Training in Public Administration"; [5] and 418 (V), "Advisory Social Welfare Services".[6]

On July 1, 1950, the "Expanded Program of Technical Assistance" was established. On July 31, 1950, the Secretary
stablished the Technical Assistance Administration "to provide for the efficient operation of the technical assistance programm
ssist in their coordination with similar programmes of the governments of Member States and the specialized agencies".
ubsequent development of the programs, see the Annual Reports of the Secretary-General.] [7]

26. GOVERNMENT CONTRIBUTIONS, BY YEARS, AS OF MAY 31, 1955 [8]

[United States dollar equivalents]

Country	1950–51	Calendar year 1952	Calendar year 1953	Calendar year 1954	Calendar year	
					Pledge	Pa
fghanistan.	$7, 001	$7, 001	$10, 000	$10, 000	$10, 000	. .
rgentina	200, 000	200, 000	200, 000	300, 000	300, 000	. .
ustralia.	400, 921	190, 000	400, 000	400, 000	500, 000	$
ustria.	19, 231	19, 231	19, 231	19, 231	38, 462	. .
elgium	270, 000	270, 000	297, 000	337, 500	337, 500	. .
olivia.	12, 500	12, 500	25, 000	7, 895	7, 895	. .
razil	459, 459	459, 459	459, 459	540, 541	486, 486	. .
urma.	7, 500	8, 000	12, 000	12, 000	18, 000	. .
yelorussian S. S. R.	. . . .	. . . .	. . . .	50, 000	50, 000	. .

ambodia	. . . . . .	5,	5,	. . . . . .	, 000	. .
anada	772, 727	750, 000	800, 000	1, 500, 000	1, 500, 000	. .
eylon.	15, 009	15, 000	15, 000	15, 000	18, 000	. .
hile.	90, 000	174, 194	209, 032	58, 909	100, 000	. .
hina	10, 000	10, 000	10, 000	15, 000	15, 000	. .
olombia.	51, 020	100, 000	100, 000	140, 000	140, 000	
osta Rica	5, 000	5, 000	5, 000	6, 000	7, 000	
uba	50, 000	50, 000	50, 000	. . . . . .	. . . . . .	. .
zechoslovakia	. . . . . .	. . . . . .	. . . . . .	69, 444	69, 444	
enmark.	95, 555	108, 585	434, 342	434, 342	550, 166	
ominican Republic.	. . . . . .	6, 000	10, 000	10, 000	20, 000	
cuador	6, 300	6, 300	6, 400	6, 400	10, 000	
gypt	81, 850	81, 850	86, 157	86, 157	100, 517	. .
l Salvador.	5, 000	5, 000	6, 000	6, 000	7, 000	. .
thiopia	20, 129	20, 000	20, 000	20, 000	20, 000	. .
ederal Republic of Germany.	. . . . . .	119, 048	148, 810	148, 810	148, 810	. .
inland	5, 000	10, 000	10, 000	10, 000	15, 000	
rance.	1, 207, 500	1, 064, 643	1, 207, 500	1, 207, 500	1, 448, 571	1
reece.	20, 295	20, 295	20, 295	5, 000	5, 000	
uatemala	5, 000	7, 500	7, 500	7, 500	7, 500	. .
aiti.	6, 000	12, 000	12, 000	12, 000	12, 000	. .
onduras.	8, 000	8, 000	9, 600	8, 000	8, 000	. .
celand.	. . . . . .	2, 500	2, 800	2, 806	2, 806	. .
ndia	250, 000	275, 000	275, 000	300, 000	400, 000	. .
ndonesia.	121, 522	43, 860	63, 585	65, 790	65, 790	. .
ran	40, 000	40, 000	40, 000	50, 000	50, 000	. .
raq	5, 005	5, 000	11, 201	13, 953	14, 002	. .
reland.	13, 994	14, 002	. . . . . .	14, 001	14, 002	. .
srael	27, 988	28, 003	40, 000	50, 000	27, 778	. .

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[1] Economic and Social Council, *Official Records, Eighth Session, upplement No. 1* (E/1310), pp. 2–3.

[2] *Ibid., Ninth Session, Supplement No. 1* (E/1553), pp. 4–18.

[3] General Assembly, *Official Records, Fourth Session, Resotions* (A/1251), p. 27.

[4] Resolution of Dec. 4, 1948; *ibid., Third Session, Part I, esolutions* (A/810), pp. 38–40.

[5] Resolution of Dec. 7, 1948; *ibid.*, p. 127.

[6] Resolution of Dec. 1, 1950; *ibid., Fifth Session, Supplement o. 20* (A/1775), pp. 40–41.

[7] General Assembly, *Official Records, Sixth Session, Su No. 1* (A/1844); *ibid., Seventh Session, Supplement No. 1 ibid., Eighth Session, Supplement No. 1* (A/2404); and *ib Session, Supplement No. 1* (A/2663).

[8] Information presented by the Department of State i of testimony for the Mutual Security Act of 1955, *Heari the Committee on Foreign Affairs, House of Representa Congress, 1st Session, May 25–June 17, 1955*, pp. 436–437 notes in text are at the end of the table.]

Country	1950–51	Calendar year 1952	Calendar year 1953	Calendar year 1954	Calendar year	
					Pledge	Pa
aly.	$93, 000	$93, 000	$93, 000	$96, 000	$200, 000	. .
apan	......	80, 000	80, 000	80, 000	......	. .
ordan.	......	......	......	2, 815	......	. .
orea	5, 000	5, 000	3, 000	3, 000	3, 000	. .
aos.	......	5, 000	2, 823	2, 857	1, 429	. .
ebanon	6, 556	6, 846	6, 846	6, 846	6, 846	. .
iberia.	8, 000	12, 000	12, 000	15, 000	15, 000	. .
ibya	......	......	3, 000	3, 600	4, 000	
iechtenstein	......	......	......	467	......	. .
uxembourg	2, 520	2, 500	2, 500	2, 500	2, 500	. .
lexico.	......	34, 682	34, 682	34, 682	24, 000	. .
lonaco	2, 857	2, 857	1, 143	1, 429	......	. .
etherlands	400, 000	400, 000	421, 053	600, 000	660, 000	
ew Zealand	124, 138	126, 015	125, 593	125, 593	......	. .
icaragua	......	5, 000	5, 000	5, 000	......	. .
orway	34, 999	55, 999	69, 999	97, 998	400, 000	
akistan	140, 663	151, 103	166, 213	166, 213	166, 213	. .
anama	......	3, 000	3, 000	3, 000	......	. .
araguay.	......	5, 000	5, 000	8, 000	8, 000	. .
eru.	......	......	10, 000	12, 000	......	. .
hilippines	50, 000	50, 000	50, 000	55, 000	55, 000	. .
oland.	......	......	75, 000	75, 000	75, 000	. .
audi Arabia	......	15, 000	15, 000	15, 000	15, 000	. .
weden.	96, 525	357, 336	386, 623	483, 279	579, 934	
witzerland.	233, 645	218, 862	231, 852	233, 372	233, 372	
yria.	11, 410	11, 410	11, 410	11, 410	11, 867	. .
hailand	19, 758	34, 000	40, 000	40, 000	40, 000	. .
urkey.	183, 638	182, 000	183, 571	201, 495	201, 495	
krainian S. S. R	......	......	......	125, 000	125, 000	. .
nited Kingdom	2, 128, 255	1, 260, 151	1, 400, 168	1, 820, 218	2, 240, 000	2,
nited States.	12, 007, 500	11, 400, 000	[1] 12, 767, 145	[2] 13, 861, 809	[3] 6, 500, 000	6,

S. S. R.[4]	......	......	1, 000, 000	1, 000, 000	1, 000, 000	..
ruguay	99, 408	50, 000	75, 000	75, 000	100, 000	..
atican City	......	......	......	2, 000	2, 000	
enezuela	44, 000	20, 000	25, 000	45, 000	150, 000	
ietnam	......	7, 500	7, 500	7, 500	......	..
emen	4, 200	......	2, 100	2, 100	......	..
ugoslavia	50, 000	50, 000	62, 500	82, 500	82, 500	..
Total pledges	20, 035, 578	18, 797, 232	22, 405, 633	25, 342, 462	19, 428, 885	11
npaid pledges as of May 31, 1955	[5] 99, 408	[6] 52, 000	[7] 242, 908	[8] 700, 193	......	..
Total contributions	19, 936, 170	18, 745, 232	22, 162, 725	24, 642, 269	......	..
umber of countries pledging per year	54	65	69	74	65	..

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[1] Of this amount, $8,171,333 was paid from funds appropriated r fiscal year 1953 and $4,595,812 from funds appropriated for scal year 1954.

[2] Of this amount, $3,904,188 was contributed from funds ppropriated for fiscal year 1954 and $9,957,621 from funds ppropriated for fiscal year 1955.

[3] Appropriated in Second Supplemental Appropriation Act, 955, Public Law 24, 84th Cong., approved Apr. 22, 1955.

[4] Pledge for 1953 program originally offered in July 1953 with mitations attached which made it unacceptable. These limiations were removed in March 1954 and contribution was then ccepted. In June 1954 the U. S. S. R. offered 4 million rubles, quivalent to $1 million, for the 1954 program.

[5] Unpaid pledge—Uruguay, $99,408.

[6] Unpaid pledges—Cuba, $50,000 and Korea, $2,000.

[7] Unpaid pledges—Brazil, $84,908; Cuba, $50,000; G $5,000; Italy, $93,000; Peru, $10,000.

[8] Unpaid pledges—Belgium, $67,500; Brazil, $321, uador, $6,195; Honduras, $8,000; Iran, $50,000; Israel, Italy, $96,000; Mexico, $34,682; Paraguay, $8,000; Peru, Syria, $11,410; Uruguay, $75,000.

NOTE.—These figures represent contributions to technical assistance special account from which allo the participating agencies are made. They do not inc tributions made by recipient governments to the cost o carried out in their own countries in local currency and services. These local contributions are estimat approximately twice the cost borne by the participating financed from the special account.

27. RESOLUTION 350 (XII) OF THE ECONOMIC AND SOCIAL COUNCIL, MARCH 19, 1951 [1]

The Economic and Social Council,

Recalling its previous resolutions on the subject of forced labour and measures for its abolition,

Considering the replies furnished by Member States to the communications addressed to them by the Secretary-General in accordance with resolutions 195 (VIII) [2] and 237 (IX),[3]

Taking note of the communications [4] from the International Labour Organisation setting forth the discussions on the question of forced labour at the 111th and 113th sessions of the Governing Body,

Considering the rules and principles laid down in International Labour Convention No. 29,[5]

Recalling the principles of the Charter relating to respect for human rights and fundamental freedoms, and the principles of the Universal Declaration of Human Rights,

Deeply moved by the documents and evidence brought to its knowledge and revealing in law and in fact the existence in the world of systems of forced labour under which a large proportion of the populations of certain States are subjected to a penitentiary regime,

1. *Decides* to invite the International Labour Organisation to co-operate with the Council in the earliest possible establishment of an *ad hoc* committee on forced labour of not more than five independent members, qualified by their competence and impartiality, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office with the following terms of reference:

> (a) To study the nature and extent of the problem raised by the existence in the world of systems of forced or "corrective" labour, which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country, by examining the texts of laws and regulations and their application in the light of the principles referred to above, and, if the Committee thinks fit, by taking additional evidence into consideration;

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[1] Economic and Social Council, *Official Records, Twelfth Session, Supplement No. 1* (E/1987), p. 9.

[2] Resolution of Mar. 7, 1949; *ibid., Eighth Session, Supplement No. 1* (E/1310), p. 9.

[3] Resolution of Aug. 5, 1949; *ibid., Ninth Session, Supplement No. 1* (E/1553), pp. 30–31.

[4] See U.N. docs. E/1671 and E/1884.

[5] Convention of June 28, 1930, as revised Oct. 9, 1946; United Nations Treaty Series, vol. 39, p. 55.

Council and to the Governing Body of the International Labou Office; and

2. *Requests* the Secretary-General and the Director-General t supply the professional and clerical assistance necessary to ensure th earliest initiation and effective discharge of the *ad hoc* committee' work.

28. RESOLUTION 740 (VIII) OF THE GENERAL ASSEMBLY DECEMBER 7, 1953 [1]

The General Assembly,

Recalling the determination of the peoples of the United Nation under the Charter to reaffirm faith in fundamental human rights an in the dignity and worth of the human person,

Regretting that the Economic and Social Council at its sixteent session was unable to consider the conclusions contained in the report of the *Ad Hoc* Committee on Forced Labour,

Considering that systems of forced labour constitute a serious threa to fundamental human rights and jeopardize the freedom and statu of workers in contravention of the obligations and provisions of th Charter of the United Nations,

Observing that the report of the *Ad Hoc* Committee on Force Labour has now been placed on the agenda of the seventeenth session o the Economic and Social Council and of the 123rd session of th Governing Body of the International Labour Office,

Considering that in view of this delay there is still time for certai governments which have not yet done so to provide information i response to the *Ad Hoc* Committee's request for comments an observations on the allegations concerning them,

1. *Affirms* the importance which it attaches to the abolition o all systems of forced or "corrective" labour, whether employed as means of political coercion or punishment for holding or expressin political views or on such a scale as to constitute an important elemen in the economy of a country;

2. *Invites* the Economic and Social Council and the Internationa Labour Organisation, as a matter of urgency, to give early considera ion to the report of the *Ad Hoc* Committee on Forced Labour a their next sessions with this aim in view;

3. *Requests* the Secretary-General to consult with government which have not yet found it possible to provide information in re sponse to the *Ad Hoc* Committee's request to the effect that the

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630) p. 19.

[2] For the full text of the report, see U.N. doc. E/2431, May 27, 1953; the con clusions of the committee also appear in Department of State *Bulletin*, Aug 10, 1953, pp. 167–175.

submit such information before the seventeenth session of the Economic and Social Council so that these replies may be brought to the attention of the Council;

4. *Requests* the Economic and Social Council to report on forced labour to the General Assembly at its ninth session.

29. RESOLUTION 842 (IX) OF THE GENERAL ASSEMBLY, DECEMBER 17, 1954[1]

The General Assembly,

Having noted Economic and Social Council resolution 524 (XVII) of 27 April 1954[2] concerning the report of the *Ad Hoc* Committee on Forced Labour,

1. *Endorses* the condemnation by the Economic and Social Council of the existence of systems of forced labour which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country;

2. *Requests* the Economic and Social Council and the International Labour Organisation to continue their efforts towards the abolition of such systems of forced labour;

3. *Supports* the Council's appeal to all Governments to re-examine their laws and administrative practices in the light of present conditions and the increasing desire of the peoples of the world to reaffirm faith in fundamental human rights and in the dignity and worth of the human person;

4. *Expresses its satisfaction* with the action taken by the Economic and Social Council in requesting the Secretary-General and the Director-General of the International Labour Office to prepare a further report on this subject for consideration by the Council at its nineteenth session, setting out:

(*a*) Whatever replies are received from Governments in pursuance of General Assembly resolution 740 (VIII) of 7 December 1953,[3]

(*b*) Any new information on systems of forced labour which might be submitted by Member States, specialized agencies and non-governmental organizations in consultative status, together with any comments submitted by the Governments concerned.

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[1] General Assembly, *Official Records, Ninth Session, Supplement No. 21* (A/2890), p. 23.

[2] Economic and Social Council, *Official Records, Seventeenth Session, Supplement No. 1* (E/2596), p. 11.

[3] *Supra.*

30. REPORT OF THE UNITED NATIONS *AD HOC* COMMISSION, SEPTEMBER 12, 1952 [1]

I

The *Ad Hoc* Commission on Prisoners of War, established under
erms of General Assembly Resolution 427 (V)[2] and consisting of
J. G. Guerrero, Vice-President of the International Court of
ce, as Chairman, Countess Bernadotte, and Mr. Aung Khine,
e of the High Court of Burma, convened for its third session on
gust 1952 at the European Office of the United Nations, Geneva.
Mr. King Gordon was Secretary of the Commission.
The Commission held three public meetings and fifteen private
ngs and was in session from 26 August to 13 September 1952.

II

Independently of its report to the Secretary-General on the work
third session as a whole, the Commission has decided to consult
lembers of the United Nations on a special aspect of its terms of
nce under General Assembly resolution 427 (V) of 14 December

It appears from paragraph 3 of this resolution that the Com-
on would only be in a position to bring its work to a successful
usion if it received the co-operation of all the governments con-
d in its task of settling the question of the prisoners of war in a
y humanitarian spirit.
From the outset, at its first session held at New York from 31
o 15 August 1951, the Commission tried to win the confidence
the governments by informing them of the way in which it
reted its humanitarian task. During that session it asked
nments to give it their assistance, particularly in the following

Transmission to the Commission of any information which it
deem necessary to request from the governments concerned with
v to facilitating the accomplishment of its task;
Transmission to the Commission of any suggestion which would
within the framework of its mission;
The establishment of direct contact between the Commission
epresentatives of the governments concerned.

In reply to a special invitation to consult with the Commission
ssed to certain governments specially concerned with the
em of prisoners of war the Governments of Australia, Belgium,

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N. doc. A/AC. 46/10, Sept. 12, 1952.
solution of Dec. 14, 1950; General Assembly, *Official Records, Fifth Session,*

Netherlands, United Kingdom of Great Britain and Northern Ireland, and the United States of America signified their readiness to collaborate with the Commission in its work, and sent representatives to the second and third sessions, held in Geneva in February and August 1952. The only government from which the Commission has had no reply is that of the Union of Soviet Socialist Republics.[1]

8. In the course of its second session the Commission, not having received from the Government of the Union of Soviet Socialist Republics any of the information specified in paragraph 2 of the Resolution of the General Assembly, again approached that Government and asked it to furnish the Commission with a list of the names of prisoners of war who had died in its custody. In a letter dated 9 February 1952 addressed to the Government of the Union of Soviet Socialist Republics the Commission recognized that owing to the devastation of war certain relevant records and archives might have been destroyed; and consequently it requested the Government of the Union of Soviet Socialist Republics to furnish it with as complete a list as possible of such deceased prisoners of war and at least with a list of those prisoners who had died since 1947.

9. In accordance with a decision taken at its second session (A/AC.46/8, paragraph 18) the Chairman addressed letters dated 18 April and 31 July 1952 to certain governments that were detaining prisoners of war on charges of war crimes or under sentence for such crimes, requesting them to send it such detailed information as the following:

(*a*) name of person prosecuted;
(*b*) date of trial;
(*c*) place of trial;
(*d*) offence with which the person was charged;
(*e*) date of judgment;
(*f*) conviction or acquittal;
(*g*) penalty imposed; and
(*h*) place where sentenced person is under detention.

The Governments so addressed were the following: Australia, Canada, Denmark, France, Norway, Philippines, United Kingdom of Great Britain and Northern Ireland, Union of Soviet Socialist Republics, and Yugoslavia. On 31 July 1952 a reminder letter was despatched to the same Governments.

10. The Commission has received no response to these requests for information from the Union of Soviet Socialist Republics.

III

11. The Commission is obliged to state, therefore, that its attempts to obtain the co-operation of the Government of the Union of Soviet Socialist Republics have been unsuccessful. Consequently the Commission has regretfully come to the conclusion that it is unable to perform the basic task for which it was set up, namely, to settle "the question of the prisoners of war in a purely humanitarian spirit and on terms acceptable to all the Governments concerned".

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[1] In this connection, see *infra*, pp. 2059-2066.

the Secretary-General of this obstacle that is paralysing its work an increasing the difficulty of verifying the large amount of informatio furnished by other governments directly concerned in the repatriatio of prisoners who have not yet returned to their homes.

13. In accordance with the resolution adopted by the General Assembly on 14 December 1950 (resolution 427 (V)) the Commissio intends, at its next session, to prepare the final report on the result of its work together with such conclusions as may be drawn from th documentation in its possession.

14. In the meantime, the Commission has decided to send thi special report to the Secretary-General, with the request that he transmit it to the Members of the United Nations before the opening o the seventh session of the General Assembly. The Commission hope that a fresh appeal for international co-operation among the Member of the United Nations and to their spirit of humanity might have th effect of giving a more promising direction to the work that has s far been carried on, with only limited success, by the *Ad Hoc* Commission on Prisoners of War.

31. RESOLUTION 741 (VIII) OF THE GENERAL ASSEMBLY DECEMBER 9, 1953 [1]

The General Assembly,

Recalling its resolution 427 (V) of 14 December 1950 on measure for the peaceful solution of the problem of prisoners of war,

Reaffirming its belief that all prisoners having originally come withi the control of the Allied Powers as a consequence of the Second Worl War should either have been repatriated long since or have bee otherwise accounted for as required both by recognized standards o international conduct and the Geneva Convention of 1949 relativ to the treatment of prisoners of war,[2] and by specific agreement between the Allied Powers,

Having examined the progress report [3] to the Secretary-General o the work of the *Ad Hoc* Commission on Prisoners of War,

1. *Notes with satisfaction* that some progress has taken place in th repatriation of prisoners of war in the course of the last two years and expresses the hope that those governments and Red Cross Societies which have contributed to that progress will continue their efforts

2. *Reiterates* its grave and continuing concern at the evidence tha large numbers of prisoners taken in the course of the Second Worl War have not yet been repatriated or otherwise accounted for;

3. *Urgently appeals* to all governments and authorities which continue to hold prisoners of the Second World War to act in con

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630), pp. 19–20.

[2] See *Geneva Conventions of August 12, 1949, for the Protection of War Victim* (Department of State publication 3938; 1950), pp. 84–161.

[3] See U.N. doc. A/2482

formity with the recognized standards of international conduct and with the above-mentioned international agreements and the Geneva Convention of 1949 which require that, upon the cessation of active hostilities, all prisoners should, with the least possible delay, be given an unrestricted opportunity of repatriation;

4. *Expresses its sincere appreciation* to the *Ad Hoc* Commission on Prisoners of War for its efforts to assist in a solution of the problem of prisoners of war; and requests the Commission to continue its efforts to assist in a solution of the problem of prisoners of war under the terms of reference contained in General Assembly resolution 427 (V) of 14 December 1950;

5. *Notes with satisfaction* that a large amount of valuable information was made available to the *Ad Hoc* Commission concerning prisoners of war; but notes with concern that certain governments and authorities mentioned in the report of the Commission have so far refused to co-operate with the Commission, which refusal represents the main obstacle by which the best efforts of the Commission have been frustrated;

6. Urgently *appeals* to all governments and authorities which have not already done so to give their full co-operation to the *Ad Hoc* Commission to supply the information requested by it on all prisoners of the Second World War who are still under their control and on such prisoners who have died while under their control; and to grant the Commission access to areas in which such prisoners are detained;

7. *Requests* the Secretary-General to continue to furnish the *Ad Hoc* Commission with the staff and facilities necessary for the effective accomplishment of its task;

8. *Requests* the *Ad Hoc* Commission to report as soon as practicable the results of its further work and possible suggestions to the Secretary-General for transmission to the Members of the United Nations.

Restrictions on United States Contributions to International Organizations

32. PUBLIC LAW 495 (82d CONGRESS, 2d SESSION), JULY 10, 1952 (Excerpts)[1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, Commerce, and the Judiciary, for the fiscal year ending June 30, 1953, namely:

. . . .

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses necessary to meet annual obligations to internationa organizations, the Government of Panama, and Gorgas Memoria Institute, pursuant to treaties, conventions, or specific Acts of Congress, $30,484,749. No representative of the United States Government in any international organization after fiscal year 1953 shal make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33⅓ per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided however*, That this section shall not apply to the United States representatives to the inter-American organizations.

No representative of the United States Government to any international organization of which the United States is not now a membe shall, unless specifically authorized in an appropriation Act or othe law, make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33⅓ per centum of the budget of such international organization.

. . . .

This Act may be cited as the "Departments of State, Justice, Commerce, and The Judiciary Appropriation Act, 1953".

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33. PUBLIC LAW 471 (83d CONGRESS, 2d SESSION), JULY 2, 1954 (Excerpts)[1]

Be it enacted by the Senate and House of Representatives of the Unite States of America in Congress assembled, That the following sum are appropriated, out of any money in the Treasury not otherwis appropriated, for the Departments of State, Justice, and Commerc and the United States Information Agency for the fiscal year endin June 30, 1955, namely:

TITLE I—DEPARTMENT OF STATE

. . . .

SEC. 109. None of the funds appropriated in this title shall be use (1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship (2) for the promotion, direct or indirect, of the principle or doctrin of one world government or one world citizenship.

. . . .

This title may be cited as the "Department of State Appropriation Act, 1955".

. . . .

34. STATEMENT BY THE DEPARTMENT OF STATE, OCTOBER 28, 1952 [1]

The Charter of the United Nations provides that the staff shall be appointed by the Secretary-General under regulations established by the General Assembly. It also provides that the Secretary-General shall not seek or receive instructions from any government and enjoins member nations to respect the exclusively international character of his responsibilities. Accordingly, the U.S. Government does not attempt to instruct the Secretary-General as to whom he may employ or may not employ; it neither recommends U.S. citizens for employment nor gives loyalty or security clearance to those employed.

At the same time, the Department of State has made known to the Secretary-General its view that the employment of U.S. citizens who are Communists is not in the best interest of the United Nations, and the Department has long had assurance of the Secretary-General's agreement to this principle. Under a confidential arrangement with the Secretary-General, the Department of State, drawing upon its access to information held by the security agencies of the U.S. Government, has for some time been of assistance to the Secretary-General in identifying U.S. citizens, employed or contemplated for employment, who would appear to be Communists.

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35. REPORT OF THE SECRETARY-GENERAL ON PERSONNEL POLICY, JANUARY 30, 1953 (Excerpts) [2]

INTRODUCTION

. . . .

C. BASIC ISSUES

4. To understand the question adequately, it is necessary to recall the fundamental decision affirming the international character and independence of the Secretariat taken in London in 1945 and 1946 by the Preparatory Commission and by the General Assembly at its first session. Two basically different concepts with regard to the appointment of members of the Secretariat were put forward in the Preparatory Commission.[3] One view was that Article 101 of the

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[1] Department of State *Bulletin*, Nov. 10, 1952, p. 735; see also the statement issued to the press by the Department of State Dec. 2, 1952 (*ibid.*, Dec. 15, 1952, p. 967).

[2] U.N. doc. A/2364.

[3] See: *United Nations Preparatory Commission, Committee 6: Administrative and Budgetary, 22nd and 23rd meetings, 19 and 20 December 1945 Summary*

tary-General and that this responsibility was necessary to assure th freedom, independence and truly international character of th Secretariat.

5. The other view, embodied in a proposal presented by a delegatio (PC/AB/54), was that appointments of officials of the Secretaria should be subject to the consent of the Government of the Membe State of which the candidate was a national, as it was argued that government would be best able to pass on the qualifications of it nationals. A majority, however, considered that this latter proposal f adopted, would effectively destroy the independence of the Secretariat. They thought that "it was common sense that the staf should, as far as possible, be acceptable to the Member governments and also that the Secretary-General would often require informatio regarding candidates from government or private bodies". Bu they also believed that "it would be extremely undesirable to writ nto the text anything which would give national governments par icular rights in this respect, or permit political pressure on th Secretary-General". The Preparatory Commission, therefore, decide by a large majority in favour of the first concept. This recommenda ion affirming the exclusive responsibility of the Secretary-General fo appointment and removal of staff members was later adopted by th General Assembly at the first part of its first session.[1]

6. The principle then approved has been followed from the beginnin amid growing tensions which have arisen between Members of th United Nations—tensions which have resulted in increasing concer for security on the part of the Member States. This concern ha been particularly manifest in the United States of America, th principal host country. In these circumstances, the Secretary General has endeavoured to provide reasonable assurance wit regard to the security of host countries and other Members of th United Nations, while safeguarding the basic requirements of a independent international secretariat pursuant to Articles 100 an 101 of the Charter.

7. Accordingly, it has always been the policy of the Secretary General to uphold the international character of the Secretariat, an to resist all pressures from whatever source which could have th effect of undermining its independence as defined in the Charter At the same time, he has always upheld the policy that no member o the Secretariat should engage in subversive activities against th government of any Member State. This does not mean that a sta member must agree with the government of the State of which he i a national. But so long as he remains in the Secretariat, it is his clea obligation under the Charter and the Staff Regulations[2] to take n

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[1] Resolution 13 (I): Organization of the Secretariat—adopted on 13 Februar 1946. See: *Resolutions adopted by the General Assembly during the first part of it first session from 10 January to 14 February 1946*, page 14. (Footnote in original.

[2] For the text of the Staff Regulations referred to by the Secretary-Genera throughout his report, see the annex to General Assembly Res. 590 (VI), Feb. 2 1952; General Assembly, *Official Records, Sixth Session, Supplement No. 20* (A/2119) pp. 76–80.

part in any activity, either open or secret, aimed at subverting or overthrowing the government of a Member State.

8. The United Nations does not—and obviously cannot—have an investigation agency comparable to those at the disposal of national governments. Therefore, the United Nations must depend upon the governments of members for assistance in checking the character and record of staff members. The Secretary-General has had this assistance from many governments, but he has always reserved, and must always reserve, to himself the final decision on the basis of all the facts.

9. It is, moreover, of fundamental importance that the Organization should comply with elementary requirements of justice and fairness in dealing with individual cases. Vague suspicions without backing must not take the place of tangible and convincing evidence; idle or malicious accusations must be guarded against and arbitrary and hasty inferences must be avoided. In the words of the Assistant Secretary-General for Administrative and Financial Services, in the memorandum attached to the present report as annex I,[1] ". . . no organization dedicated to law and order in world affairs can hope to survive if its own administrative actions are arbitrary and precipitate, based on mere suspicion and devoid of the due process to which all civilized peoples are dedicated".

10. To place the problem in its proper setting, it should also be kept in mind that the Secretariat of the United Nations works in a glass house not only physically, but in every respect. It is not a profitable place for spies and saboteurs. Almost all meetings and documentation of the United Nations are open for all to see and hear. No military secrets are ever handled by the Secretariat. Furthermore, the policies and programmes of the United Nations in all fields, political, economic, social and financial, are determined by the governments of Member States, not by the Secretariat. The work of the Secretariat in carrying out these policies and programmes is subject to the constant scrutiny of the governments.

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PART I. GENERAL PERSONNEL POLICY

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PART II. THE PROBLEM OF ALLEGED SUBVERSIVE ACTIVITIES BY STAFF MEMBERS

A. Background

(1) *Introduction*

44. As indicated in the Introduction to the present report, allegations by United States authorities of subversive activities by certain staff members have been causing increasing concern and discussion. In the present section the factual background of this issue will be

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[1] Not reprinted here.

45. It should be noted that, with a single exception, no staf member has ever been indicted or charged in any court with espionag or any other subversive activity. In one case a staff member—no of the United States nationality—was convicted of espionage in th United States and left the country. The espionage in no way relate to the staff member's functions as a United Nations official. In further case a staff member—also not of United States nationality— was terminated while on home leave, after the United States Govern ment said he had attempted espionage.

(2) *Information supplied by the United States of America relating t staff members*

46. The history of the discussions between the Secretary-Genera and the United States of America regarding information abou possible subversive activities on the part of staff members and appli cants of United States nationality is given in full in the memorandun of the Assistant Secretary-General for Administrative and Financia Services, transmitted by the Secretary-General to the Permanen Representative of the United States on 23 December 1952 whicl is reproduced in annex I[1] to the present report. Requests for infor mation were made as early as 1946. Beginning in 1950, the Unitec States Mission gave the Secretary-General adverse evaluations o omments from time to time regarding a few Americans. Thes comments were not accompanied by any evidence. They were i such terms as "reject", "questionable", or "incomplete". The tota number of persons so commented upon was less than 3 per cent o the more than 2,000 Americans in the Secretariat. In some case additional confidential information was obtained from reliable source which was sufficient to enable the Secretary-General to reach decision. In most of these cases, however, he was left with no mor than the bare adverse comments, which served only as a basis fo further examination of each case.

(3) *Investigations by a Special Federal Grand Jury*

47. In 1952, a Special Federal Grand Jury[2] impanelled by th United States District Court for the Southern District of New Yorl conducted an investigation of possible violations of United State law by United States citizens who were members of the Secretariat The scope of this investigation was described by the Grand Jury i a presentment prepared at the termination of its service as follows "Our investigation has not been concerned in any way with th United Nations itself—its policies, objectives, or its internal affairs

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[1] Not reprinted here.

[2] Unlike the petty or trial jury, the Grand Jury does not determine the guil or innocence of an accused individual but only decides whether sufficient evi dence exists to warrant a prosecution. It is thus an accusatorial and investi gatory, rather than a judicial body. It is considered, however, a part of the cour and is not an agency of the prosecuting attorney. (Footnote in original.)

violations of law by United States citizens whose acts putably within our jurisdiction. Consequently, only United States citizens have been called as witnesses by us, and their interrogation has been scrupulously confined to matters unrelated to their official activities in the United Nations".

48. It was reported orally to the Secretary-General that during this investigation several staff members refused, on the ground of their constitutional privilege against self-incrimination, to answer questions about associations and activities outside the United Nations. Some of these staff members had never been adversely commented upon by the United States. The Secretary-General at once requested a copy of the record of the Grand Jury proceedings, or at least some official statement of what took place, but this request was denied on the ground that it could not legally be complied with.

49. On 2 December 1952, the Grand Jury made public a presentment [1] which it submitted to the United States District Court for the Southern District of New York. This presentment contained no indictments and mentioned no names. It set forth certain conclusions and made certain recommendations. Among the conclusions were statements that there was "infiltration into the United Nations of an overwhelmingly large group of disloyal United States citizens", and that this situation constituted a menace to the security of the United States. The Grand Jury recommended among other things that no United States citizens should be permitted to accept employment with the United Nations without prior clearance by the United States Government; that staff members and applicants of United States nationality should be required to fill out an application form designed to elicit information on subversive activities; and that another Grand Jury should continue the investigation.

50. On the following day, the Secretary-General formally addressed the United States Mission asking that, in fairness to himself and the staff, he be given either the Grand Jury records or at least an official statement of specific evidence. The text of the letter follows:

"My dear Senator Austin,

"You are aware of my great concern over recent disclosures regarding United States citizens on my staff charged with having engaged in subversive activities and of the measures I have taken to meet this problem in a manner satisfactory to both the United Nations and its host country.

"I should like to express my appreciation to you for the assistance given to me by the United States Mission in regard to this problem and in particular for having made available to me the official records of the Senate Internal Security Sub-Committee relating to personnel of the Secretariat. I have found these records most helpful.

"In this morning's paper I have read the presentment of the Federal Grand Jury 'on disloyalty of certain United States citizens at the

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[1] For its text, see the New York *Times*, Dec. 3, 1952.

Court yesterday. This presentment, as you are no doubt aware contains a number of conclusions involving serious charges agains members of the staff of the United Nations who are not specifically identified.

"Although these conclusions bear directly on my responsibility a Secretary-General I have not received the records of the Grand Jury proceedings, nor have I received official information setting forth th facts on which the conclusions of the Grand Jury have been based. I am sure you will agree that in view of the conclusions made public ther should be made available to me either the records of the Grand Jury relating to personnel of the United Nations, or, if this cannot be done an official statement of the specific evidence on which the conclusion of the Grand Jury have been based. I wish to assure you that any such information declared to be confidential will be held by me i strict confidence.

"In this connexion, I should like to draw your attention to the recen opinion submitted to me by a commission of eminent jurists whic recommended that if the Secretary-General is satisfied that he ha reasonable grounds for believing that a member of the staff is engaged or is likely to engage in activities regarded as disloyal by th host country the officer concerned should no longer be employed i that country.

"The Commission pointed out that where such allegations have bee made against a staff member a full inquiry by the Secretary-Genera is required and that in such an inquiry it would be highly desirabl if the Member State in question could give the Secretary-Genera not only the general conclusions but also the evidence upon whic the Member State has come to that conclusion. They state in thi connexion 'to put the Secretary-General on inquiry and to withhol the evidence places him in a position of great embarrassment'. It i recognized by the Commission of Jurists that the information receive would have to be kept confidential if the Member State so requests

"In view of the wide publicity given to the conclusions of the Gran Jury I consider it highly desirable, indeed essential in fairness to m and my staff, that the evidence for the conclusions be made availabl to me as quickly as possible. I should be most grateful for you assistance in this respect.

"*Sincerely yours,*

(*Signed*) TRYGVE LI
Secretary-General"

51. On 28 January 1953, the Permanent Representative of th United States replied that the Secretary-General's request had bee transmitted to the Department of State, and referred to the Department of Justice. The note continued:

"As has been communicated informally to the Assistant Secretary-General in charge of Administrative and Financial Services, th Representative of the United States has been advised that in the view o the Department of Justice that Department is forced to adhere to its as prohibiting the disclosure by that Department to the Secretary-General of any testimony or proceedings before the Federal Grand Jury, for which request was made by the Secretary-General. In this connexion, however, the Department of Justice has pointed out that the procedure established by the Executive Order issued by the President of the United States on 9 January 1953 has been devised especially to make available to the Secretary-General information upon which he may take action as contemplated by the report of the Commission of Jurists established by him".

(4) *Investigations by the Internal Security Sub-Committee of the United States Senate*

52. The Internal Security Sub-Committee of the Senate Judiciary Committee has, during the past year, investigated, among other matters, United States employees of the United Nations suspected of subversive activities. The investigations of this Sub-Committee were conducted under Senate resolutions [1] which direct a continuing study of the administration, operation and enforcement of the Internal Security Act of 1950 [2] and of other laws relating to espionage, sabotage and the protection of the internal security of the United States, and also of the extent, nature and effects of subversive activities in the United States.

53. The scope and purpose of the investigation of United Nations staff members of American nationality was more specifically defined by the Acting Chairman of the Sub-Committee at the opening of public hearings in New York in October 1952 when he stated:

"This Sub-Committee will take testimony to determine whether United States citizens who, even though they are United Nations employees, have been engaged in subversive activities which are clearly beyond the scope of their employment. Our interest in this inquiry is solely to safeguard the internal security of the United States. This is in no sense an investigation into the United Nations or the functions of the United Nations".

. . . .

58. During the course of the investigations of the Senate Sub-Committee, a number of senators issued strongly worded statements on the necessity of eliminating disloyal United States citizens from the Secretariat. A ruling made on 15 October 1952 by the Acting Chairman of the Sub-Committee is reproduced in the Opinion of the Commission of Jurists (annex III).[3] This statement concerns the right of United States citizens who are staff members of the United Nations to refuse, on the ground of United Nations immunity, to testify about acts performed by them in their official capacity and falling within their functions.

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[1] S. Res. 7, 81st Cong., 1st sess., and S. Res. 366, 81st Cong., 2d sess.

[2] PL 831, 81st Cong., 2d sess., approved Sept. 23, 1950; 64 Stat. 987.

[3] Not reprinted here.

leased to the Press a memorandum from the Department of Stat which contained a list of names of United Nations staff members or whom the Department had made "adverse comments". Twenty-seven of these persons were no longer employed at that time by th United Nations, while eleven were still members of the Secretariat Since then four of the eleven have left the Secretariat by resignation retirement or termination.

60. On 2 January 1953, the Internal Security Sub-Committee submitted a report on activities of United States citizens employe by the United Nations to the Senate Committee on the Judiciary. This report recommended "that procedures be devised for giving th greatest possible degree of assurance that any and all informatio respecting the loyalty of any American citizen employee of an international organization be communicated to the proper authorities o the organization". It was also recommended that legislative safeguards should be established to prevent future employment by international organizations located in the United States of "America nationals of questionable loyalty to the United States", and that a arrangement should be made under which information concernin the records of all American applicants for employment should be submitted to international organizations "so that the security of th United States may be protected". The Sub-Committee also recommended "that the Senate reassert and take effective steps to implement its inherent power to compel the production of documents an nformation which it needs in the proper performance of its functions and to punish for contempt".

61. On 7 January 1953, a Bill was introduced in the United State Senate (S. 3—83rd Congress, 1st session), the sponsor of which stated that it was designed to implement the recommendations o the Senate Sub-Committee with respect to this matter. The text o this Bill will be found in annex IV.[2]

(5) *Opinion of the Commission of Jurists*

62. Confronted by grave problems arising from the charges an nvestigations, the Secretary-General decided on 22 October 195 after full consideration to appoint an international commission o jurists to advise him on the action he should take to meet the situation He asked them to advise him on the five following specific questions

(i) Is it compatible with the conduct required of a staff membe for him to refuse to answer a question asked by an authorized orga of his government on the ground of the constitutional privilege agains self-incrimination?

(ii) What effect should be given by the Secretary-General to th

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[1] *Report of the Sub-Committee to Investigate the Administration of the Interna Security Act and other Internal Security Laws, to the Committee on the Judiciary United States Senate, Eighty-Second Congress, Second Session, on activities of Unite States citizens employed by the United Nations*, 2 January 1953 (United State Government Printing Office, Washington, D. C., 1953). (Footnote in original.

[2] Not reprinted here.

staff member for purposes of official travel?

(iii) In view of the Charter requirements and the Staff Regulations, what action should the Secretary-General take when he receives information from an official source of the United States Government that a staff member of United States citizenship is alleged to be disloyal to his government?

(iv) In the course of inquiries by agencies of the United States Government, should the Secretary-General make available archives of the Organization or authorize staff members to respond to questions involving confidential information relating to official acts?

(v) If it appears that the Secretary-General possesses no present authority to dismiss holders of permanent appointments on evidence of subversive activities against their country or refusal to deny such activities, what new legal steps would be necessary and effective to confer such authority?

63. The Commission began to meet in the following month and presented its opinion to the Secretary-General on 29 November 1952 (annex III).[1] On 5 December 1952, the Secretary-General informed the governments of Member States that he had made the following statement to the staff concerning the opinion of the Commission of Jurists:

> "On 23 October 1952, I announced that I would submit to a group of jurists from three Member countries, for advice, certain issues arising out of the hearings of the United States Senate Sub-Committee on Internal Security. The Commission of Jurists met for the first time on 14 November, and presented its opinion to me on Saturday, 29 November.
>
> "I am very grateful to the jurists for having dealt so thoroughly within a very short time with the complicated and important problems submitted to them.
>
> "I have carefully studied the opinion they have presented. I have decided to use the conclusions and recommendations of this opinion as the basis of my personnel policy in discharging the responsibilities entrusted to me by the Charter and Staff Regulations of the United Nations.
>
> "In pursuance of the recommendation of the jurists, I propose to establish within a few days an advisory panel to assist me in dealing with specific cases in accordance with the opinion.
>
> "It is my earnest hope that on this basis it will be possible for the United Nations and the host country by mutual efforts to maintain harmonious relationships on matters affecting the staff of the Secretariat which, in the words of the opinion, 'depend mainly upon a good understanding as to the necessities of the international organization and its staff on the one hand, and the necessities of the host country on the other'."

64. It was in relation to the five specific questions he had asked that the Secretary-General accepted the conclusions and recommenda-

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[1] Not reprinted here.

ccepted all the arguments in the opinion or all the implications tha might be drawn from it. In a statement made on 16 December 195 to the Fifth Committee on behalf of the President of the Genera Assembly, the Secretary-General and himself, the Chairman of th Fifth Committee declared that the Secretary-General "did not bin himself to every argument or every single word contained in th opinion".

(6) *Personnel actions taken by the Secretary-General*

65. While awaiting the report of the jurists the Secretary-Genera had in the meantime taken such action as he considered was clearl within his authority. Temporary employees who had invoked th privilege against self-incrimination during the hearings of the Unite States Senate Internal Security Sub-Committee and with respect t whom the Secretary-General had subsequently received additiona confidential information from reliable sources, were dismissed on th ground that their employment was no longer in the interest of th United Nations. Those staff members with permanent appointment who had refused to answer questions on the ground of the privileg of self-incrimination were placed on compulsory leave. On 5 December, acting on the basis of the jurists' opinion, the Secretary-Genera terminated the permanent staff members who had pleaded th privilege after first giving them an opportunity to change their mind about testifying. In his letters of termination the Secretary-Genera wrote:

> "On 1 December 1952, I sent you a copy of the opinion of th Commission of Jurists which was submitted to me on 29 Novembe 1952, and told you of my decision to accept the recommendatio of the Commission to the effect that a person who has refused t answer such questions is unsuitable for continued employment b the United Nations.
>
> "In my letter I stated that unless I was informed by noon yesterday that you had notified the appropriate United States authoritie of your intention to withdraw the plea of privilege and answer th pertinent questions put to you, I would be compelled to take actio in your case in accordance with the recommendation of the Commission of Jurists.
>
> "Since your letter of . . . does not so inform me, I have decide that your action constitutes a fundamental breach of the obligation laid down in Staff Regulation 1.4 and that you are unsuitable fo continued employment in the Secretariat".

(7) *Executive Order of the President of the United States dated 9 January 1953*

66. On 9 January 1953, the President of the United States issue Executive Order 10422 (18 F.R. 239), "prescribing procedures fo making available to the Secretary-General of the United Nation certain information concerning United States citizens employed o

being considered for employment on the Secretariat of the United Nations" (reproduced as annex V).[1]

67. Though the Secretary-General was kept informed of developments in connexion with the preparation of the Executive Order, there was no question of bilateral negotiation or of acceptance by the Secretary-General of its provisions, as he considered that the matter was an internal one for the United States authorities. The Secretary-General, however, considered the issuance of the Order a progressive step toward making adequate information available to him and stated to representatives of the United States Mission to the United Nations and of the United States Civil Service Commission that he was ready to co-operate in providing United States authorities with the identification information necessary to enable them to carry out the Executive Order.

68. The text of the Executive Order was transmitted to the Secretary-General by a letter dated 9 January 1953 from the Permanent Representative of the United States. This letter stated as follows:

> "I have the honor to advise that I have been requested by the Secretary of State to inform you of the issuance of an Executive Order 'prescribing procedures for making available to the Secretary-General of the United Nations certain information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations,' signed by the President of the United States on 9 January, 1953. A copy of the Order is enclosed.
>
> "The Executive Order is intended to enable the Government of the United States to do all that it properly can to assure the achievement of the mutual objective of the Secretary-General and the United States to assure that the United Nations shall not employ or continue in its employment United States citizens who are engaged, have been engaged, or are likely to be engaged in any subversive activities against the United States.
>
> "My Government wishes to initiate at once the procedures provided by the Order, and its representatives would like to work out the details of the necessary arrangements with your designees at their earliest convenience. In the meantime, my Government requests that appointment action be withheld on any pending appointments of United States citizens.
>
> "It is to be hoped that this action by the President of the United States will be accepted as further evidence of the importance which this Government attaches to the United Nations as an instrument for the promotion of international peace and security, and of its desire to strengthen the United Nations so that it can fulfil the purposes of the Charter effectively in accordance with its principles".

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to the Permanent Representative of the United States:

"I have the honour to acknowledge the receipt of your letter of 9 January 1953, enclosing a copy of an Executive Order signed by the President of the United States on that date relating to United States citizens employed or being considered for employment in the Secretariat of the United Nations. I appreciate your action in informing me of procedures being adopted by your Government for making available to me information concerning these persons.

"In this connexion I have particularly noted the reaffirmation in the Executive Order of the principle of the independence of the Secretary-General and his sole responsibility to the General Assembly of the United Nations for the selection and retention of staff. I have also noted that, under the procedure prescribed, individuals with respect to whom there are adverse comments will be afforded the opportunity of hearings and review before United States agencies on the basis of the standards set forth in the Executive Order.

"In accordance with your request, I have instructed members of my staff to engage in preliminary discussions with your representatives concerning the practical application of the Order. As you are aware, I am preparing for the consideration of the General Assembly at the second part of its seventh session a comprehensive report on personnel policy, which will contain all relevant documents including the Executive Order of 9 January 1953.

"It is my earnest hope that the procedure prescribed by the Order will contribute to a solution of problems involving American citizens in the United Nations Secretariat who have been the subject of recent enquiry and discussion".

70. Procedures for supplying the United States Government with the necessary identification information concerning United States citizens employed or being considered for employment on the Secretariat of the United Nations have since been put into effect.

(8) *Appointment of the Secretary-General's Advisory Panel*

71. On 16 January 1953 the Secretary-General announced the appointment of the members of the Advisory Panel proposed by the Commission of Jurists. The Chairman of the Panel is Mr. Leonard W. Brockington, Q.C., LL.D., of Canada, appointed in his individual capacity. The appointment of an alternate chairman to serve in the absence of the Chairman will be announced shortly. The members of the Panel will be as follows: Mr. Ralph Bunche, Principal Director, Department of Trusteeship and Information from Non-Self-Governing Territories; Mr. Tor Gjesdal, Principal Director, Department of Public Information; Mr. Gustavo Martínez-Cabañas, Deputy Director-General, Technical Assistance Administration; and Mr. Constantin A. Stavropoulos, Principal Director in charge of the Legal Department.

72. The Panel's detailed terms of reference will be established after the General Assembly has dealt with the question of personnel policy

the Panel has the function of advising the Secretary-General on cases referred to it by him.

(9) *Relevant provisions of United States law*

73. Some delegations have informally indicated that they would like to receive, as background for their consideration of the measures taken by the Secretary-General, a summary of relevant provisions of the law of the United States relating to subversive activities. Accordingly, the Legal Department has prepared, for this purpose annex VI [1] which includes material relating to the Smith Act of 1940,[2] to the Internal Security Act of 1950,[3] and to the laws and regulations concerning loyalty standards and procedures for employees of the United States Government.[4]

B. POLICY REGARDING EMPLOYEES WHO CLAIM THE PRIVILEGE AGAINST SELF-INCRIMINATION IN OFFICIAL INQUIRIES

74. The problem raised by staff members who refuse to testify on the ground of the privilege against self-incrimination referred to in paragraphs 55, 56 and 65 above, must be evaluated in the light of the legal effect and significance of the privilege. For this reason a brief summary of the meaning and application of the privilege precedes discussion of the policy adopted in dealing with United Nations officials who claim it.

(1) *Status of the privilege against self-incrimination in United States constitutional law*

75. The so-called privilege against self-incrimination, as a rule of evidence and criminal procedure, has been recognized and applied by the English and American courts since the middle of the seventeenth century as a protection against tyrannical prosecution. The incorporation of the privilege into the federal Constitution of the United States and into the constitutions of most states did not change the pre-existing law although it has lent additional sanctity to the privilege. The privilege is found in the Fifth Amendment, one of the ten amendments to the Constitution (the so-called Bill of Rights) which were adopted in 1791 to restrict the manner in which the powers entrusted to the federal government may be exercised. The pertinent language of the Fifth Amendment states that no person "shall be compelled in any criminal case to be a witness against himself".

76. Strictly speaking the Fifth Amendment merely limits the power of the Federal Government of the United States and does not grant a right to the individual. It protects the individual only in federal proceedings and only against testimonial compulsion by federal authori-

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[1] Not reprinted here.

[2] 54 Stat. 670.

[3] 59 Stat. 669.

[4] Principally, Ex. Or. No. 9835 (12 *Fed. Reg.* 1935) and Ex. Or. No. 10241 (16 *Fed. Reg.* 3690).

states of the United States have made part of their own laws in different degrees.

77. Literally interpreted, the self-incrimination clause of the Fifth Amendment provides only that a defendant in a criminal case may not be compelled to testify. The privilege, however, can also be asserted by witnesses who are not defendants. Moreover, it is not limited to judicial proceedings but applies to any proceeding in which testimony may be compelled. It applies to administrative proceedings and to investigations such as those by grand juries or legislative committees. The policy behind the grant of the privilege in such proceedings is, of course, the realization that testimony obtained from a mere witness may later be used to prosecute him criminally.

78. The privilege is not available to protect the witness against the disclosure of facts which are merely damaging to his reputation or subject him merely to civil liabilities. Only fear that he may furnish evidence tending to convict him of crime entitles him to refuse to answer. In federal proceedings the crime itself must be a federal crime; if it is merely a state crime, it is generally considered that the privilege does not apply. Further, the privilege is personal to the witness and it cannot be invoked merely to protect his associates from criminal liability. Moreover, the crime must be one for which a prosecution could still be had. If the witness is given legally binding immunity, or if the statute of limitations bars prosecution, the privilege is lost.

79. On the other hand, the privilege protects not only against the disclosure of complete crimes but of separate elements of crimes, and even clues which might lead to the discovery of crime are protected. The witness, however, is not permitted to refuse to answer capriciously; for the privilege to apply, his refusal must appear to be reasonable in the light of all the circumstances.

(2) *Employment disabilities in the United States as a consequence of invoking the privilege*

80. As indicated, the purpose of the privilege against self-incrimination is to provide protection against criminal prosecutions. It regulates the conduct of judge and prosecutor at criminal trials and, under federal law and the law of some states, the jury is forbidden to draw unfavourable inferences from the refusal of the defendant to testify. In so far as the privilege applies in other proceedings, it merely permits witnesses to refuse answers which might later be used to prosecute them. Thus, it is clear that the prevention of criminal prosecution based on evidence which the defendant himself furnished when compelled to do so by an oath to testify is the only underlying policy of the privilege.

81. However, the fact that a person could not be convicted of a crime does not imply that that person must necessarily be fit for either public or private employment. The immunity from prosecution is solely a negative quality. Employers have a right to insist on more exacting standards [illegible] the probity and fitness of their employees.

law binding on the states, that public employment cannot be refused to anyone on grounds that are arbitrary or improper. In the light of this principle, it is significant that a public official who invokes the privilege against self-incrimination in a matter concerning his official duties may be dismissed for that reason. If testifying would result in immunity for any crime to which the testimony relates, a public official must waive that immunity or forfeit his position. Two of the states (New York and Louisiana) have express statutes to this effect. In other states this result has been reached on common law grounds.

83. Courts in the United States which have been confronted with such questions assign two reasons for their conclusions:

(*a*) The refusal to testify leads to the natural inference that the refusal is motivated by actual guilt and bad conscience.

(*b*) Such a refusal to testify is not consistent with the positive duty of government officials to aid in the elimination of crime and the apprehension and conviction of criminals.

84. On either score, the official invoking the privilege is considered to have shown his unfitness for public office. Even a private employment contract which requires an employee to preserve his reputation free from scandal is breached if the employee invokes the privilege, and he may be dismissed.

85. These rulings are consistent with the policy of the privilege to protect only against criminal penalties and not against civil disadvantages. The official against whom these rules are invoked is not in any way deprived of the privilege; its protection, however, does not extend beyond the unavailability of his testimony for criminal prosecutions.

(3) *The effect of a claim of privilege on the status of a United Nations staff member*

86. It remains to outline the action to be taken by the United Nations in case one of its employees invokes the privilege in the course of an official inquiry by a Member nation. As indicated above, the problem has arisen in the United States, the seat of the Secretariat, but it may arise also in other countries which accord the privilege.

87. There may be cases where the United Nations should ignore the matter if the claim of privilege is made in a context which has no bearing on the functioning of the Organization or on the fitness of the employee to be an international civil servant. On the other hand, it is certainly of concern to the United Nations when an employee pleads his privilege in an inquiry concerning activities which are inconsistent with the status of international civil servants and with their fundamental obligations under the Charter and the Staff Regulations. Such activities include, among others, those involving espionage, sabotage, or incitement to violent overthrow of governments of Member nations.

88. Admittedly, the claim of privilege does not warrant an inference of guilt strong enough to suffice for criminal conviction. But the mere absence of evidence warranting a finding of guilt is hardly a

civil servant. A claim that an answer might tend to incriminat must be based under the law on a *bona fide* apprehension that a criminal prosecution might ensue. The fact that there is such apprehension gives rise in actual practice to an unfavourable inference. Thi inference cannot be dismissed as unreasonable, since the witness himself is asserting that he has in good faith a fear that his answer migh tend to establish his guilt. Although he cannot be asked to identif the nature of the crime, this is reasonably indicated by the purpose o the inquiry and the particular circumstances of the interrogation.

89. Thus, in the cases of the United Nations staff members wh refused to answer questions before the Senate Sub-Committee it wa apparent that the possible area of guilt related to crimes involvin subversive activities. The use of the privilege in that context naturally gave rise to the belief that there was reasonable ground for th witness to fear that he might be convicted of a crime involving th security of the United States.

90. It cannot be doubted that a situation of this kind impairs th relationship of mutual confidence and trust which must exist betwee the international official and the governments of Member States Especially in a time of serious political tension and concern ove national security, the United Nations staff member has a positiv obligation to refrain from conduct which will draw upon himsel grave suspicion of being a danger to the security of a particular State When he has refused to answer official interrogations relating to crime involving subversive activities, he has by his own free choice violate that obligation; he has thereby contributed substantially to undermining the confidence which the international official is required t maintain.

91. For these reasons, the Secretary-General has followed th recommendation of the Commission of Jurists that in the future staf members should be dismissed for violation of their fundamental obligations, particularly under article 1.4 of the Staff Regulations, wher they have used the privilege against self-incrimination in officia inquiries concerned with subversive activities and espionage.

C. Policy in Cases of Accusation or Suspicion

92. It remains to examine the difficult question of cases of accusations or suspicion of subversive activities on the part of United Nations staff members.

93. As has already been stated, confidential information has during the last years been transmitted to the Secretary-General by severa governments. Moreover, accusations have been made and suspicions have been voiced in the United States in the course of investigations by national official bodies and in the public press. The following portion of the present report will examine the fundamental considerations which should govern the handling of these accusations, the substantive and evidential standards which should be applied, and the procedures which should be followed.

94. The Secretary-General's authority to dismiss staff members cannot be exercised arbitrarily. Such decisions must not only remain within the limit of his powers as defined by the Charter and the Staff Regulations, but must comply with the elementary requirements of justice. For the Secretary-General to dismiss a staff member on the basis of the mere suspicion of a government of a Member State or a bare conclusion arrived at by that government on evidence which is denied the Secretary-General would amount to receiving instructions in violation of his obligation under Article 100, paragraph 1 of the Charter not to receive, in the performance of his duties, instructions from any government. Further, his dismissal of a permanent official without adequate evidence would be a denial of that reasonable security of tenure which has repeatedly been recognized as indispensable to the creation of an efficient and devoted international civil service.

95. Finally, dismissal on a ground relating to subversive activities is a very serious matter for the staff member concerned. It not only deprives him of a respected position with the United Nations, but may also gravely impair his prospects of employment elsewhere and subject him to public condemnation in his own country. An action which so vitally affects the life of an individual should only be taken after due process and on the basis of convincing evidence.

96. These considerations, however, should not obscure the fundamental fact that an international civil servant occupies a special position of trust and confidence. He has not only an affirmative duty of loyalty to the policies established by the responsible organs of the United Nations but he has, over and above this, the obligation to conduct himself so that he can rightfully command the trust and confidence of the governments of Member States. There can, therefore, be no question that staff members must refrain from any activity aimed at subverting or overthrowing any Member government; they must indeed refrain from any conduct which might justly draw upon them grave suspicion of being a danger to the security of a particular State. In accordance with these considerations the following standards of substance and evidence should be applied.

(2) *Standards*

97. The Secretary-General should not retain a staff member in the employment of the United Nations if he has reasonable ground for believing that that staff member is engaging or is likely to engage in subversive activities against the government of any Member State. The expression "subversive activities" is used, not with any special technical meaning, but in its ordinary sense, which denotes activities directed toward the overthrow of a government by force, including conspiracy toward such overthrow and incitement and advocacy of it.

98. It should be required that there be *reasonable ground* for believing accusations of this type against staff members. This means that charges must be supported by a preponderance of the evidence.

in determining whether there is such reasonable ground, the Advisory Panel and the Secretary-General should give proper weigh to national laws and legislative findings and to the findings of fac of national courts and tribunals, in addition to the evidence of th facts of each case.

99. For a finding that a staff member is likely to engage in subversive activities, something more than a remote possibility of hi doing so must be shown. Of necessity, such a finding must largel be based upon the staff member's past conduct. However, convincing evidence that in the past an official had engaged in subversiv activities would not necessarily lead to a finding that he was likel to be engaged in such activities either at present or in the future Later conduct and attitudes might show there was no likelihood o his engaging in such activities again.

100. It remains to discuss the policy to be followed by the Secretary-General when he receives derogatory information about a staf member. Such information may be transmitted by a government or may come from other sources. In the latter case it may be of suc slight weight or relevance that the Secretary-General should decid that no action is required; or on the other hand, it may warrant further investigation and submission to the Advisory Panel.

101. The Secretary-General should give the most serious consideration to evidence transmitted to him by the government of Member State. Any communication from a government concernin subversive activities on the part of a staff member puts the Secretary-General on inquiry, and such cases, particularly when permanen staff members are involved, should in the ordinary course be submitted to the Advisory Panel.

102. In the case of the United States, information of two kind may be transmitted to the Secretary-General (see part I, paragrap 5, of Executive Order 10422, reproduced as annex V [1] to the presen report). A Regional Loyalty Board, or the Loyalty Review Boar on appeal, will transmit its determination to the Secretary-Genera on whether it believes there is a reasonable doubt as to the loyalt of the person involved to the Government of the United States such determination will be accompanied by the reasons therefo stated in such detail as security considerations permit. This information will also be made known to the individual concerned a well as to the Secretary-General, but will not be made public. O at any stage of the investigation or Loyalty Board proceeding derogatory information may be confidentially sent to the Secretary-Genera o allow him to determine whether to take interim action prior t the completion of the procedures outlined in the Executive Order Either class of information will be submitted to the Advisory Pane in appropriate cases, and after its advice has been received th Secretary-General will decide what action should be taken.

103. Finally, some evidence, for example admissions by a staf member in the course of an official proceeding, may be sufficientl

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[1] Not reprinted here.

General to take action immediately without any need of a
the Panel.

(3) *The Advisory Panel*

104. The terms of reference of the Advisory Panel v
nounced at a later stage. In preparing the terms of refe
consideration will be given to the requirements of due pro

105. When the Panel has completed its consideration o
ular case, it will make recommendations to the Secretar
These recommendations will be of an advisory charact
responsibility for terminating members of the staff is im
the Secretary-General by the Charter and the Staff Reg

. . . . . .

36. RESOLUTION 708 (VII) OF THE GENERAL AS APRIL 1, 1953[1]

The General Assembly,

Recalling the following provisions of Articles 100 and
Charter:

"*Article 100*

"1. In the performance of their duties the Secretary-C
the staff shall not seek or receive instructions from any g
or from any other authority external to the Organizat
shall refrain from any action which might reflect on th
as international officials responsible only to the Organiz

"2. Each Member of the United Nations undertakes
the exclusively international character of the responsibi
Secretary-General and the staff and not to seek to infl
in the discharge of their responsibilities.

"*Article 101*

"1. The staff shall be appointed by the Secretary-Ge
regulations established by the General Assembly.

". . .[2]

"3. The paramount consideration in the employment
and in the determination of the conditions of service s
necessity of securing the highest standards of efficiency,
and integrity. Due regard shall be paid to the im
recruiting the staff on as wide a geographical basis as p
and

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[1] General Assembly, *Official Records, Seventh Session, Supplem*
(A/2361/Add. 1).

[2] Ellipsis in original.

1. *Expresses its confidence* that the Secretary-General will conduc personnel policy with these considerations in mind;

2. *Requests* the Secretary-General to submit to the General Assembl at its eighth session a report on the progress made in the conduct an development of personnel policy, together with the comments of th Advisory Committee on Administrative and Budgetary Question thereon;[2]

3. *Invites* the Secretary-General and the Advisory Committee o Administrative and Budgetary Questions to submit, after appropriat consultations with the administrative heads of the specialized agencies, their recommendations as to any further action that may b required of the General Assembly;[3]

4. *Calls upon* all Members of the United Nations to assist th Secretary-General in the discharge of his responsibilities as chie administrative officer of the United Nations.

37. INVESTIGATION OF UNITED STATES CITIZENS EMPLOYED BY THE UNITED NATIONS: Executive Order No 10459, June 2, 1953 [4]

PRESCRIBING PROCEDURES FOR MAKING AVAILABLE TO THE SECRETARY-GENERAL OF THE UNITED NATIONS CERTAIN INFORMATION CONCERNING UNITED STATES CITIZENS EMPLOYED OR BEING CONSIDERED FOR EMPLOYMENT ON THE SECRETARIAT OF THE UNITED NATIONS

Whereas the United States has ratified the Charter of the United Nations and is participating in the activities of the United Nations by virtue of the ratification of the said Charter (59 Stat. 1031) and of the authority granted by the United Nations Participation Act of 1945 (59 Stat. 619); and

Whereas a Commission of Jurists has advised the Secretary-General of the United Nations [5] that he should regard it as of th first importance to refrain from employing or to dismiss from employment on the Secretariat of the United Nations any United States citizen who he has reasonable grounds for believing has been, is, o s likely to be, engaged in espionage or subversive activities against the United States; and

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[1] U.N. doc. A/2364, excerpts from which are printed *supra*.

[2] The Secretary-General submitted his report Nov. 21, 1953 (U.N. doc. A/2533). The Advisory Committee's comments thereon are contained in U.N. doc. A/2555, dated Nov. 14, 1953.

[3] The respective sets of recommendations are set forth in the two reports cited n the preceding footnote.

[4] 18 *Fed. Reg.* 3183. This order is an amendment and revision of Exec. Order No. 10422 of Jan. 9, 1953; 18 *Fed. Reg.* 239.

[5] For the text of the opinion of the Commission of Jurists, dated Nov. 29, 1952, see Annex III to the Secretary-General's report of Jan. 30, 1953 (U. N. doc. A/2364).

on which the Secretary-General can make his determination as to whether reasonable grounds exist for believing that a United States citizen employed or being considered for employment on the Secretariat has been, is, or is likely to be, engaged in espionage or subversive activities against the United States; and

Whereas the Commission of Jurists has further advised that the independence of the Secretary-General and his sole responsibility to the General Assembly of the United Nations for the selection and retention of staff should be recognized by all Member Nations; and

Whereas the Secretary-General has declared his intention to use the conclusions and recommendations of the opinion of the said Commission of Jurists as the basis of his personnel policy in discharging the responsibilities entrusted to him by the Charter and staff regulations of the United Nations;[1] and

Whereas in the participation by the United States in the activities of the United Nations it is in the interest of the United States that United States citizens who are employees of the Secretariat of the United Nations be persons of the highest integrity and not persons who have been, are, or are likely to be, engaged in espionage or subversive activities against the United States; and

Whereas it is in the interest of the United States to establish a procedure for the acquisition of information by investigation and for its transmission to the Secretary-General in order to assist the Secretary-General in the exercise of his responsibility for determining whether any United States citizen employed or being considered for employment on the Secretariat has been, is, or is likely to be, engaged in espionage or subversive activities against the United States; and

Whereas such procedure should afford opportunity for hearing to any United States citizen employed or being considered for employment on the Secretariat as to whom an investigation discloses derogatory information, so that the person affected may challenge the accuracy of any such information;

Now, therefore, by virtue of the authority vested in me by the Constitution, statutes, and treaties of the United States, including the Charter of the United Nations, and as President of the United States, it is hereby ordered as follows:

Part I. Investigation of United States citizens employed or being considered for employment on the Secretariat of the United Nations

1. Upon the receipt by the Secretary of State from the Secretary-General of the United Nations of the name and of other necessary identifying data concerning each United States citizen employed or being considered for employment by the United Nations, there shall

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[1] See paragraph 65 of the Secretary-General's report. The United Nations Staff Regulations referred to throughout this Executive order are those printed as the annex to the General Assembly's Res. 590 (VI), Feb. 2, 1952; General Assembly, *Official Records, Sixth Session, Supplement No. 20* (A/2119), pp. 76–80.

set forth in part II of this order.

2. The Secretary of State shall forward the information received from the Secretary-General of the United Nations to the United States Civil Service Commission, and the Commission shall conduct a preliminary investigation.

3. The preliminary investigation conducted by the Civil Service Commission shall be a full background investigation conforming to the investigative standards of the Civil Service Commission, and shal include reference to the following:

(*a*) Federal Bureau of Investigation files.
(*b*) Civil Service Commission files.
(*c*) Military and naval intelligence files as appropriate.
(*d*) The files of any other appropriate government investigative or intelligence agency.
(*e*) The files of appropriate committees of the Congress.
(*f*) Local law-enforcement files at the place of residence and employment of the person, including municipal, county, and state law-enforcement files.
(*g*) Schools and colleges attended by the person.
(*h*) Former employers of the person.
(*i*) References given by the person.
(*j*) Any other appropriate source.

However, in the case of short-term employees whose employment does not exceed ninety days, such investigation need not include reference to sub-paragraph (*f*) through (*j*) of this paragraph.

4. Whenever information disclosed with respect to any person being investigated is derogatory, within the standard set forth in part II of this order, the United States Civil Service Commission shal forward such information to the Federal Bureau of Investigation, and the Bureau shall conduct a full field investigation of such a person Provided that in all cases involving a United States citizen employed or being considered for employment on the internationally recruited staff of the United Nations for a period exceeding ninety days, the investigation required by this part shall be a full field investigation conducted by the Federal Bureau of Investigation.

5. Reports of full field investigations shall be forwarded through the United States Civil Service Commission to the Internationa Organizations Employees Loyalty Board, established by part IV of this order and hereinafter referred to as the Board. Wheneve such a report contains derogatory information, under the standard set forth in part II of this order, there shall be made available to the person in question the procedures of the Board provided or authorized by part IV of this order (including the opportunity of a hearing for inquiring into the loyalty of the person as a United States citizen in accordance with the standard set forth in part II of this order The Board shall transmit its determinations, as advisory opinions together with the reasons therefor stated in as much detail as the Board etermines that security considerations permit, to the Secretary

for his use in exercising his rights and duties with respect to the personnel of the United Nations as set out in the Charter and regulations and decisions of the competent organs of the United Nations.

6. At any stage during the investigation or Board proceeding, the Board may transmit to the Secretary of State, for forwarding to the Secretary-General, in as much detail as the Board determines that security considerations permit, the derogatory information disclosed by investigation. This shall be for the purpose of assisting the Secretary-General in determining whether or not he should take action with respect to the employee, or the person being considered for employment, prior to the completion of the procedures outlined in this order. The making available of any such information shall be without prejudice to the right of full hearing as provided for herein.

7. The Secretary of State shall notify the Secretary-General in all cases in which no derogatory information has been developed.

Part II. Standard

1. The standard to be used by the Board in making an advisory determination as provided for in paragraph 5 of part I of this order with respect to a United States citizen who is an employee of, or is being considered for employment by, the United Nations, shall be whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

2. Activities and associations of a United States citizen who is an employee or being considered for employment by the United Nations which may be considered in connexion with the determination whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States may include one or more of the following:

(*a*) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(*b*) Treason or sedition or advocacy thereof.

(*c*) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States.

(*d*) Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of United States documents or United States information of a confidential or non-public character obtained by the person making the disclosure as a result of his previous employment by the Government of the United States or otherwise.

(*e*) Performing or attempting to perform his duties, or otherwise acting, while an employee of the United States Government during a previous period, so as to serve the interests of another government in preference to the interests of the United States.

(*f*) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, or group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted

of the United States, or as seeking to alter the form of government o
the United States by unconstitutional means.

Part III. Other international organizations

The provisions of parts I and II of this order shall be applicabl to United States citizens who are employees of, or are being considere for employment by, other public international organizations of whic the United States Government is a member, by arrangement betwee the executive head of the international organization concerned an the Secretary of State or other Officer of the United States designate by the President.

Part IV. International Organizations Employees Loyalty Board

1. There is hereby established in the Civil Service Commission a International Organizations Employees Loyalty Board of not less tha three impartial persons, the members of which shall be officers o employees of the Commission.

2. The Board shall have authority in cases referred to it under thi order to inquire into the loyalty to the Government of the Unite States of United States citizens employed, or considered for employment, by international organizations of which the United States is member, and to make advisory determinations in such cases, unde the standard set forth in part II of this order, for transmission by th Secretary of State to the executive heads of the international organizations coming under the arrangements made pursuant to parts I an III of this order.

3. The Board shall make necessary rules and regulations, not inconsistent with the provisions of this order, for the execution of it functions. There shall be included in such rules and regulations provisions for furnishing each person whose case is considered by th Board:

(*a*) A written statement of the alleged derogatory information, i as much detail as security considerations permit.

(*b*) An opportunity to answer or comment upon the statement o alleged derogatory information, in writing, and to submit affidavits.

(*c*) An opportunity for hearing before the Board, or a panel thereo of at least three members, including the right of the person to b represented by counsel, to present witnesses and other evidence in hi behalf, and to cross-examine witnesses offered in support of the derogatory information: Provided, that the Board shall conduct it hearings in such manner as to protect from disclosure informatio affecting the national security.

4. Based upon all the evidence before it, including such confidentia information as it may have in its possession, the Board shall make it determinations in writing, and shall send to each person who is th subject thereof a copy. In cases in which hearing or other action i by a panel of three members, the action or determination of the pane

shall constitute the action or determination of the Board,
rules and regulations pursuant to paragraph 3 of this pa
adopted by action of the Board as a whole.

5. Except as otherwise specified in this order, the Ci
Commission shall provide the necessary investigative
services required by the Board. All agencies of the execu
of the Government are authorized and directed to coopera
Board, and, to the extent permitted by law, to furnish the
information and assistance as it may require in the perform
functions.

6. All cases arising under this order which are pending
regional Loyalty Boards and the Loyalty Review Board o
mission on the effective date of Executive Order No. 10450
1953,[1] shall on that date be transferred to the Board.

38. RESOLUTION 782 (VIII) OF THE GENERAL A
DECEMBER 9, 1953 [2]

A

AMENDMENTS TO THE STAFF REGULATIONS OF THE UNITE

The General Assembly

Adopts, as amendments to the Staff Regulations of
Nations,[3] the text annexed to the present resolution. Th
ments shall become effective from the date of their adopti

ANNEX

Staff regulation 1.4 (amended text)

Members of the Secretariat shall conduct themselves a
in a manner befitting their status as international civi
They shall not engage in any activity that is incompatib
proper discharge of their duties with the United Nati
shall avoid any action and in particular any kind of public
ment which may adversely reflect on their status, or on th
independence and impartiality which are required by t
While they are not expected to give up their national
or their political and religious convictions, they shall a
bear in mind the reserve and tact incumbent upon them b
their international status.

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[1] 18 *Fed. Reg.* 2489.

[2] General Assembly, *Official Records, Eighth Session, Supplement*
2630), p. 40.

[3] For the text of the Staff Regulations, see the annex to the Genera
Res. 590 (VI), Feb. 2, 1952; *ibid., Sixth Session, Supplement No.*
pp. 76–80.

Staff members may exercise the right to vote but shall in any political activity which is inconsistent with or n upon the independence and impartiality required by the international civil servants.

Staff regulation 9.1 (a) (additional provisions)

The Secretary-General may also, giving his reaso terminate the appointment of a staff member who holds a appointment:

(i) If the conduct of the staff member indicates th member does not meet the highest standards of integri by Article 101, paragraph 3, of the Charter;

(ii) If facts anterior to the appointment of the st and relevant to his suitability come to light which, if the known at the time of his appointment, should, under th established in the Charter, have precluded his appointme

No termination under sub-paragraphs (i) and (ii) shal until the matter has been considered and reported on b advisory board appointed for that purpose by the Secreta

Finally, the Secretary-General may terminate the a of a staff member who holds a permanent appointment if would be in the interest of the good administration of the C and in accordance with the standards of the Charter, pr the action is not contested by the staff member concerned

Staff regulation 9.3 (additional paragraph to become sub-pa

(*b*) The Secretary-General may, where the circumstan and he considers it justified, pay to a staff member termi the final paragraph of staff regulation 9.1 (*a*) a terminatio payment not more than 50 percent higher than that w otherwise be payable under the Staff Regulations.

B

AMENDMENT TO THE STATUTE OF THE UNITED NATIONS A TIVE TRIBUNAL

The General Assembly

Adopts, as an amendment to the Statute of the Unit Administrative Tribunal,[1] the text annexed to the present This amendment shall become effective from the date of i

ANNEX

Article 9 (amended text)

1. If the Tribunal finds that the application is well shall order the rescinding of the decision contested or

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[1] For the text of the Statute of the Administrative Tribunal, see Assembly's Res. 351 (V), Nov. 24, 1949; *ibid., Fourth Session, Resoluti* pp. 49–51.

performance of the obligation invoked. At the same time the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgment, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case; provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order.

2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits, order the case remanded for institution or correction of the required procedure. Where a case is remanded the Tribunal may order the payment of compensation, not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay.

3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 12.

C

REVIEW OF THE STAFF REGULATIONS OF THE UNITED NATIONS, INCLUDING THE PRINCIPLES AND STANDARDS APPLIED IN THEIR IMPLEMENTATION

The General Assembly

1. *Decides* to undertake, at its tenth session in 1955, on the basis of a report to be submitted by the Secretary-General [1] and of the comments thereon of the Advisory Committee on Administrative and Budgetary Questions, including their recommendations [2] as to such further action as may be required of the General Assembly, a review both of the principles and standards progressively developed and applied by the Secretary-General in his implementation of the Staff Regulations and of the Staff Regulations themselves; [3]

2. *Requests* the Secretary-General to circulate to the governments of Member States, not later than four weeks before the opening date of the tenth session of the General Assembly, the report and comments referred to in paragraph 1 above.

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[1] U.N. doc. A/2996.

[2] U.N. doc. A/3036.

[3] See the General Assembly's Res. 974 (X), Dec. 15, 1955; General Assembly, *Official Records, Tenth Session, Supplement No. 19* (A/3116), pp. 36–37.

39. PUBLIC LAW 107 (83d CONGRESS, 1st SESSION), July 9, 1953 [1]

Be it enacted by the Senate and House of Representatives of the Unitec States of America in Congress assembled, That section 3 (c) of th joint resolution entitled "Joint resolution to codify and emphasiz existing rules and customs pertaining to the display and use of th flag of the United States of America", approved June 22, 1942, as amended (36 U. S. C., sec. 175 (c)), is amended by adding at th end thereof the following new sentence:

"No person shall display the flag of the United Nations or any othe national or international flag equal, above, or in a position of superio prominence or honor to, or in place of, the flag of the United State at any place within the United States or any Territory or possessio thereof: *Provided,* That nothing in this section shall make unlawfu the continuance of the practice heretofore followed of displaying th flag of the United Nations in a position of superior prominence o honor, and other national flags in positions of equal prominence o honor, with that of the flag of the United States at the headquarter of the United Nations."

World Calendar Reform

40. LETTER FROM THE UNITED STATES REPRESENTATIV AT THE UNITED NATIONS [3] TO THE SECRETARY-GENERA OF THE UNITED NATIONS, MARCH 21, 1955 [4]

The Representative of the United States of America to the Unite Nations presents his compliments to the Secretary-General of th United Nations and has the honor to refer to the Secretary-General' note SOA 146/2/01, dated October 7, 1954, concerning World Calenda Reform.

The United States Government does not favor any action by th United Nations to revise the present calendar. This Governmen cannot in any way promote a change of this nature, which woul intimately affect every inhabitant of this country, unless such a reform were favored by a substantial majority of the citizens of the United States acting through their representatives in the Congress of the United States. There is no evidence of such support in the United States for calendar reform. Large numbers of United States citizens oppose the plan for calendar reform that is now before the Economic and Social Council. Their opposition is based on religious grounds, since the introduction of a "blank day" at the end of each year would disrupt the seven-day sabbatical cycle.

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[1] 67 Stat. 142.

[2] 56 Stat. 1075.

[3] Henry Cabot Lodge, Jr.

[4] Department of State *Bulletin*, Apr. 11, 1955, p. 629.

Moreover, this Government holds that it would be inappropriate for the United Nations, which represents many different religious and social beliefs throughout the world, to sponsor any revision of the existing calendar that would conflict with the principles of important religious faiths.

This Government, furthermore, recommends that no further study of the subject should be undertaken. Such a study would require the use of manpower and funds which could be more usefully devoted to more vital and urgent tasks. In view of the current studies of the problem being made individually by governments in the course of preparing their views for the Secretary-General, as well as of the previous study made by the Secretary-General in 1947, it is felt that any additional study of the subject at this time would serve no useful purpose.

Régime of the Territorial Sea

41. REPORT OF THE SIXTH SESSION OF THE INTERNATIONAL LAW COMMISSION, JUNE 3–JULY 28, 1954 (Excerpts) [1]

I. INTRODUCTION

55. At its third session in 1951 the International Law Commission decided to initiate work on the topic "régime of territorial waters" which it had selected for codification and to which it had given priority pursuant to a recommendation contained in General Assembly resolution 374 (IV) of 6 December 1949.[2]

[*The remainder of this Section* (*through paragraph 72*) *traces the work of the International Law Commission in drafting the "provisional articles" as set forth in Section II.*]

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[1] General Assembly, *Official Records, Ninth Session, Supplement No. 9* (A/2693), pp. 12–21. See also *infra*, pp. 1346–1356.

[2] *Ibid., Fourth Session, Resolutions* (A/1251), p. 66.

II. PROVISIONAL ARTICLES CONCERNING THE REGIME OF THE TERRITORIAL SEA

CHAPTER I

GENERAL

Article 1

JURIDICAL STATUS OF THE TERRITORIAL SEA

1. The sovereignty of a State extends to a belt of sea adjacent to ts coast and described as the territorial sea.

2. This sovereignty is exercised subject to the conditions prescribed in these regulations and other rules of international law.

Comment

Paragraph 1 emphasizes the fact that the rights of the coastal State over the territorial sea do not differ in nature from the rights of sovereignty which it exercises over other parts of its territory. There is an essential difference between the régime of the territorial sea and that of the high seas since the latter is based on the principle of free use by al nations. The replies of the Governments in connexion with The Hague Conference of 1930[1] and the report of the Conference's Committee on the subject confirmed that this view, which is almost unanimously held, is in accordance with existing law. This is also the view underlying some multilateral conventions—such as the Ai Navigation Convention of 1919[2] and the International Civil Aviation Convention of 1944[3]—which treat territorial waters in the same way as other parts of State territory.

The Commission preferred the term "territorial sea" to "territoria waters". It is of the opinion that the term "territorial waters" lend itself to confusion for the reason that it may be used to describe both internal waters only, and internal and territorial waters taken together For the same reason, the Codification Conference also expressed a preference for the term "territorial sea". Although not universally accepted, this term is becoming more and more prevalent.

Clearly, the coastal State's sovereignty over the territorial sea cannot be exercised otherwise than in conformity with the provision of international law. The reason why this is expressly mentioned i paragraph 2 is that the Commission wished to convey beyond any possible doubt that, while recognizing the State's sovereignty over th which has at times been claimed to be a quality implied in sovereignty.

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[1] See the League of Nations publication entitled *Acts of the Conference for th Codification of International Law* (4 vols.; Geneva, 1930).

[2] Convention of Oct. 13, 1919; C. F. Redmond, *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States and Other Power* vol. III (Washington, 1923), pp. 3768 ff.

[3] *A Decade of American Foreign Policy*, pp. 311–327.

This draft sets forth the specific limitations imposed by international law on the exercise of sovereignty in the territorial sea. These provisions should not, however, be regarded as exhaustive. Events which occur in the territorial sea and which have a legal import are also governed by the general rules of international law which cannot be codified in this draft as applying to the territorial sea in particular. For this reason, the "other rules of international law" are mentioned in addition to the provisions of this draft.

It may happen that, by reason of some special, geographical or other, relationship between two States, rights in the territorial sea are granted to one of them in excess of the rights recognized in this draft. It is not the intention of the Commission to limit any more extensive rights of passage or other rights enjoyed by States by virtue of custom or treaty.

Article 2

JURIDICAL STATUS OF THE AIR SPACE OVER THE TERRITORIAL SEA AND OF ITS BED AND SUBSOIL

The sovereignty of a coastal State extends also to the air space over the territorial sea as well as to its bed and subsoil.

Comment

This article reproduces, subject to purely stylistic changes, the provisions of the 1930 regulation. It may be said to form part of positive law. Since the present draft regulations deal exclusively with the territorial sea, the Commission did not consider the conditions in which sovereignty over the air space, sea-bed and subsoil in question is exercised.

CHAPTER II

LIMITS OF THE TERRITORIAL SEA

Article 3

BREADTH OF THE TERRITORIAL SEA

(Postponed)

Article 4

NORMAL BASE LINE

Subject to the provisions of article 5 and to the provisions regarding bays and islands, the breadth of the territorial sea is measured from the low-water line along the coast, as marked on the largest-scale chart available, officially recognized by the coastal State. If no detailed charts of the area have been drawn which show the low-water line, the shoreline (high-water line) shall be used.

The Commission considered that, according to the international law in force, the extent of the territorial sea is measured, as a general rule from the low-water line along the coast, but that, in certain cases, it is permissible under international law to employ base lines independent of the low-water mark. This is the Commission's interpretation of the judgment of the International Court of Justice rendered on 10 December 1951 in the Fisheries Case between the United Kingdom and Norway.[1]

The traditional expression “low-water mark” may have different meanings; there is no uniform standard by which States in practice determine this line. The Commission considers that it is permissible to adopt as the base line the low-water mark as indicated on the largest-scale official charts of the coastal State. The Commission considers that the omission of detailed provisions such as were prepared by the 1930 Conference is hardly likely to induce Governments to shift the low-water lines on their charts unreasonably.

In the absence of detailed charts indicating the low-water line, the only practical solution would seem to be to employ the shore-line (high-water line) as the base line.

Article 5

STRAIGHT BASE LINES

1. As an exception, where this is justified for historical reasons or where circumstances necessitate a special régime because the coast is deeply indented or cut into or because there are islands in its immediate vicinity, the base line may be independent of the low-water mark. In these special cases, the method of straight base lines joining appropriate points on the coast may be employed. The drawing of such base lines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within these lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

2. As a general rule, the maximum permissible length for a straight base line shall be ten miles. Such base lines may be drawn, when justified according to paragraph 1, between headlands of the coastline or between any such headland and an island less than five miles from the coast, or between such islands. Longer straight base lines may, however, be drawn provided that no point on such lines is more than five miles from the coast. Base lines shall not be drawn to and from drying rocks and shoals.

3. The coastal State shall give due publicity to the straight base lines drawn by it.

Comment

The International Court of Justice considers that where the coast is deeply indented or cut into, or where it is bordered by an archipelago of the low-water mark and can only be determined by means of a geometric construction. The Court said:

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[1] International Court of Justice *Reports, 1951*, pp. 114–206.

"In such circumstances the line of the low-water mark can no longer be put forward as a rule requiring the coast line to be followed in all its sinuosities; nor can one speak of exceptions when contemplating so rugged a coast in detail. Such a coast, viewed as a whole, calls for the application of a different method. Nor can one characterize as exceptions to the rule the very many derogations which would be necessitated by such a rugged coast. The rule would disappear under the exceptions. . . ."

"The principle that the belt of territorial waters must follow the general direction of the coast makes it possible to fix certain criteria valid for any delimitation of the territorial sea; these criteria will be elucidated later. The Court will confine itself at this stage to noting that, in order to apply this principle, several States have deemed it necessary to follow the straight base-lines method and that they have not encountered objections of principle by other States. This method consists of selecting appropriate points on the low-water mark and drawing straight lines between them. This has been done, not only in the case of well-defined bays, but also in cases of minor curvatures of the coast line where it was solely a question of giving a simpler form to the belt of territorial waters." [1]

The Commission interprets the Court's judgment, which was delivered on the point in question by a majority of 10 votes to 2, as expressing the law in force; accordingly, it took this judgment as the basis in drafting the article. Since, however, it is of the opinion that the rules recommended by the experts who met at The Hague in 1953 [2] add certain desirable particulars to the general method advised by the Court, it has endorsed the experts' recommendations in a slightly modified form.

The Commission considers that these additions represent a progressive development of international law, and that they cannot be regarded as binding until approved by States.

Article 6

OUTER LIMIT OF THE TERRITORIAL SEA

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the base line equal to the breadth of the territorial sea.

Comment

This is the method of determining the outer limit recommended by the group of experts; it had been in use already before 1930. By means of this method one obtains a line which in the case of deeply indented coasts departs from the line which follows the sinuosity of the coast. It is undeniable that the latter would often be so tortuous as to be unusable for the purpose of shipping.

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[1] International Court of Justice *Reports, 1951*, pp. 129–130.

[2] This meeting was held from Apr. 14 to 16, 1953; the report of the group appears as an annex to U.N. doc. A/CN.4/61/Add. 1.

The line all the points of which are at a distance of T miles from the nearest point on the coast (T being the breadth of the territorial sea) may be obtained by means of a continuous series of arcs of circles drawn with a radius of T miles from all points on the coast line. The outer limit of the territorial sea is formed by the most seaward arcs In the case of a deeply indented coast, this line although undulating will form less of a zigzag than if it followed all the sinuosities of the coast because circles drawn from those points on the coast where the coast line is most irregular will not usually affect the outer limit of the seaward arcs. In the case of a straight coast, or if the straight base line method is followed, the arcs of circle method produces the same results as the strictly parallel line.

The Commission considers that the arcs of circle method is to be recommended because it is likely to facilitate navigation. In any case, the Commission feels that States should be free to use this method without running the risk of being charged with a violation of international law by reason of the fact that the line does not follow all the sinuosities of the coast.

Article 7

BAYS

(Postponed)

Article 8

PORTS

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast.

Comment

This article is consistent with the positive law now in force.

The waters of a port up to a line drawn between the outermost installations form part of the inland waters of the coastal State This draft regulation does not contain provisions relating to the régime of ports for it deals exclusively with the territorial sea. The important question of the régime of ports is to be considered at a later stage in the Commission's work.

Permanent structures erected on the coast and jutting out to sea coastal State must give due publicity to the limits of such roadsteads.

Comment

Apart from stylistic changes this article reproduces the 1930 text. The Commission considers that roadsteads situated outside the territorial sea should not be treated as inland waters. While appreciating that the coastal State must be able to exercise special supervisory and police rights in the roadsteads, the Commission thought it excessive to treat them as part of inland waters for otherwise the innocent passage of merchantmen through them might conceivably be prohibited.

The fact that these waters are held to be part of the territorial sea constitutes sufficient protection for the rights of the State.

The Commission considers that the article as it now stands reproduces the international law in force.

Article 10

ISLANDS

Every island has its own territorial sea. An island is an area of land surrounded by water which in normal circumstances is permanently above high-water mark.

Comment

This article applies both to islands situated in the high seas and to islands in the territorial sea. In the case of the latter their own territorial sea coincides partly with the territorial sea of the coast. The presence of the island will cause an outward bulge in the outer limit of the territorial sea. The same idea can be expressed in the following form: islands, wholly or partly situated in the territorial sea, will be taken into consideration for the purpose of determining the outer limit of the territorial sea.

It is an essential condition that an island, to qualify for that name, must be an area of land which apart from abnormal circumstances is permanently above high-water mark. Accordingly, the following are not considered islands and have no territorial sea:

(i) Elevations which emerge at low tide only. Even if an installation is built on such an elevation and if that installation (*e. g.*, a lighthouse) is permanently above water level, the term island as defined in this article cannot be applied to such an elevation;

(ii) Technical installations built on the sea-bed, such as installations used for the exploitation of the continental shelf. As is evident from the Commission's report on its fifth session (A/2456) it is nevertheless proposed that a safety zone around such installations should be recognized in view of their great vulnerability. The Commission does not think that a similar measure is required in the case of lighthouses.

Article 11

GROUPS OF ISLANDS

(Postponed)

Article 12

DRYING ROCKS AND SHOALS

Drying rocks and shoals which are wholly or partly within the territorial sea may be taken as points of departure for delimiting th territorial sea.

Comment

Drying rocks and shoals situated wholly or partly in the territoria sea are treated in the same way as islands. The limit of the territoria sea will accordingly make allowances for the presence of such dryin rocks and will jut out to sea off the coast. Drying rocks and shoal however which are situated outside the territorial sea have no territorial sea of their own.

The Commission considers that the above article expresses the international law in force.

It was said that the terms of article 5 (under which base lines ar not drawn to or from drying rocks and shoals) might perhaps not b compatible with article 12. The Commission does not consider them incompatible. The fact that for the purpose of determining th breadth of the territorial sea drying rocks and shoals are assimilate to islands does not imply that such rocks are treated as islands i every respect. If they were, then, so far as the drawing of base line is concerned, and in particular in the case of shallow waters off th coast, the distance between base lines and the coast might conceivabl be far in excess of that intended to be laid down by the method o these base lines.

Article 13

DELIMITATION OF THE TERRITORIAL SEA IN STRAITS

1. In straits joining two parts of the high seas and separating tw or more States, the limits of the territorial sea shall be ascertained i the same manner as on the other parts of the coast.

2. If the breadth of the straits referred to in paragraph 1 is les than the extent of the belt of territorial sea adjacent to the two coasts the maritime frontier of the States in question shall be determined i conformity with article 15.

shall be applicable to straits which join two parts of the high seas and which have only one coastal State in cases in which the breadth of the straits is greater than twice the breadth of that State's territorial sea. If as a consequence of this delimitation an area of sea not more than two miles across is entirely enclosed in the territorial sea, such area may be declared by the coastal State to form part of its territorial sea.

Comment

Within the straits with which this article deals the belts of sea along the coast constitute territorial sea in the same way as on any other part of the coast.

Where the width throughout the straits exceeds the sum of the breadth of the two belts of territorial sea, there is a channel of high sea through the strait. On the other hand, if the width throughout the strait is less than twice the breadth of the two belts of territorial sea, the waters of the strait will be territorial waters. Other cases may arise: at certain places the width of the strait is greater than, while elsewhere it is equal to or less than, the total breadth of the two belts of territorial sea. In these cases portions of the high sea may be surrounded by territorial sea. It was thought that there was no valid reason why these enclosed portions of sea—which may be quite large in area—should not be treated as the high seas. This view is confirmed by the consideration that in such circumstances the stretch of sea between the two coasts might be treated as two straits separated by open sea. If such areas are very small, however, practical reasons justify their assimilation to territorial sea; but it is proposed in the article to confine such exceptions to "enclaves" of sea not more than two nautical miles in width; this distance was chosen by the Commission in reliance on the precedent of the 1930 Conference, though it is not claimed that this is now an existing rule of positive law.

If both shores belong to the same State, the issue of a delimitation of territorial waters can only arise if the strait is more than twice as broad as the territorial sea. In this case the rule set forth in paragraph 1 will apply. The question of enclaves dealt with in paragraph 3 may crop up in this situation too, in which case the enclave (if not more than two miles in breadth) may be treated as territorial sea.

Article 14

DELIMITATION OF THE TERRITORIAL SEA AT THE MOUTH OF A RIVER

(Postponed)

States, or unless another boundary line is justified by special circum-stances, the median line every point of which is equidistant from the base lines from which the width of the territorial sea of each country s measured.

Comment

The delimitation of the territorial sea between two States the coasts of which are opposite each other was one of the principal tasks of the group of experts which met at the Commission's request at The Hague n April 1953. The experts made the following recommendation:

"An international boundary between countries the coasts of which are opposite each other at a distance of less than 2 T miles (T being the breadth of the territorial sea) should as a general rule be the median line, every point of which is equidistant from the base lines of the States concerned. Unless otherwise agreed between the adjacent States, all islands should be taken into consideration in drawing the median line. Likewise, drying rocks and shoals within T miles of only one State should be taken into account, but similar elevations of undetermined sovereignty, that are within T miles of both States, should be disregarded in laying down the median line. There may, however, be special reasons, such as navigation and fishing rights, which may divert the boundary from the median line. The line should be laid down on charts of the largest scale possible, especially if any part of the body of water is narrow and relatively tortuous."

The Commission had considered this proposal in connexion with the delimitation of the continental shelf between two States in cases where the same continental shelf is contiguous to the territory o two or more States. The Commission took the view that the boundary of the continental shelf should be drawn according to the same principles as those to be adopted for the delimitation of the territoria sea. The Commission endorsed the proposals of the experts and took hem as the basis of draft article 7, paragraph 1, concerning the ontinental shelf. It felt, however, that the provision should not b oo detailed but should retain a certain latitude. Accordingly, i disregarded certain details mentioned by the experts. (On this question, see paragraph 82 of the Commission's report on its fifth session (A/2456)).

The Commission felt it should follow this precedent in respect o the delimitation of the territorial sea and adopted an article which follows very closely the provisions of draft article 7, paragraph 1 relating to the continental shelf (A/2456, paragraph 62).

The Commission's draft articles relating to the continental shel contain a general arbitration clause (A/2456, paragraph 62, article 8) which provides that disputes which may arise between States concerning the interpretation or application of the articles in questior should be submitted to arbitration at the request of any of the Parties As mentioned in paragraph 86 of document A/2456, the clause also covers boundary disputes connected with draft article 7 relating t the continental shelf.

It is realized that some provision for arbitration is also needed fo hold over for the time being all provisions relating to the application of the articles relating to the territorial sea, it did not draft an article comparable to draft article 8 concerning the continental shelf.

Article 16

DELIMITATION OF THE TERRITORIAL SEA OF TWO ADJACENT STATES

The boundary of the territorial sea between two adjacent States is drawn, in the absence of agreement between those States or unless another boundary line is justified by special circumstances, by application of the principle of equidistance from the base lines from which the width of the territorial sea of each of the two countries is measured.

Comment

The situation described in this article may be regulated in various ways.

Firstly, it may be possible to consider extending outwards towards the sea the land frontier up to the outer limit of the territorial sea. This line can only be used if the angle between the land frontier and the coast is a right angle; if the angle is an acute angle it is inapplicable.

Another solution would be to draw a line at right angles to the coast at the intersection of the land frontier and the coast line. This method is open to criticism if the coast line curves in the vicinity of the intersection. In this case the line drawn at right angles might meet the coast at another point.

A third solution would be to adopt as a demarcation line the geographical parallel of the point at which the land boundary meets the coast. However that solution is not applicable in all cases.

A fourth solution might be provided by a line drawn at right angles to the general direction of the coastline. The adoption of this line was recommended by, *inter alia*, the Belgian Government, in reply to the circular letter of the Secretary-General dated 13 November 1952 (A/CN.4/71, pages 4 and 5). The Norwegian Government drew attention to the arbitration award of 23 October 1909,[1] in a dispute between Norway and Sweden, where the statement of reasons contains the following sentence: "The delimitation shall be made by tracing a line perpendicularly to the general direction of the coast" (A/CN.4/71, page 14). The Swedish Government referred to the same decision (A/CN.4/71/Add.1, page 3).

The group of experts was unable to support this last method of drawing the boundary line. It agreed that it was often impracticable to establish any "general direction of the coast" and the result would depend on the "scale of the charts used for the purpose and . . . how much coast shall be utilized in attempting to determine any general direction whatever". Consequently, since the method o drawing a line at right angles to the general direction of the coastlin is too vague for the purposes of the law, the best solution seems to b the median line which the committee of experts suggested. Such line should be drawn according to the principle of equidistance fron the respective coastlines (see the reply of the French Government A/CN.4/71/Add.2, pages 2 and 3). Where the coast is straight, line drawn according to this method will coincide with one drawn a right angles to the coast at the intersection of the land frontier an the coastline. If, however, the coast is curved or irregular, the lin takes the contour into account while avoiding the difficulties of th roblem of the general direction of the coast.

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[1] Decision of the Permanent Court of Arbitration in the Matter of the Maritime Boundary Dispute between Norway and Sweden, Oct. 23, 1909, The Hague; *American Journal of International Law,* vol. IV (1910), pp. 226–236.

The Commission had already expressed support for the opinion o the experts in the matter of the delimitation of the continental shel etween two adjacent States (see A/2456, draft article 7, paragrap 2, relating to the continental shelf).

It followed the same method in the matter of the delimitation o the territorial sea. The observation made at the end of the commen on article 15 also applies to this article.

CHAPTER III

RIGHTS OF PASSAGE

Article 17

MEANING OF THE RIGHT OF PASSAGE

1. Passage means navigation through the territorial sea for th purpose either of traversing that sea without entering inland waters or of proceeding to inland waters, or of making for the high sea fron inland waters.

2. Passage is not innocent if a vessel makes use of the territoria sea of a coastal State for the purpose of committing any act prejudicia to the security or public policy of that State or to such other of it interests as the territorial sea is intended to protect.

3. Passage includes stopping and anchoring, but in so far only a the same are incidental to ordinary navigation or are rendere necessary by *force majeure* or by distress.

Comment

This article follows the lines of the regulation proposed by Sub Committee II of the 1930 Conference, but the Commission considere time of war are reserved.

No provision in this chapter is meant to affect the rights and obligations of Members of the United Nations under the Charter.

SECTION A: VESSELS OTHER THAN WARSHIPS

Article 18

RIGHTS OF INNOCENT PASSAGE THROUGH THE TERRITORIAL SEA

Subject to the provisions of these regulations, vessels of all States shall enjoy the right of innocent passage through the territorial sea.

Comment

This article lays down that the vessels of all States have the right of innocent passage through the territorial sea. It reiterates a principle recognized by international law and confirmed by the 1930 Conference.

The conditions governing the exercise of this right are set forth in the articles which follow. Some members of the Commission argued that, since the coastal State has sovereignty in the territorial sea, it would be more logical to specify the duties of coastal States with respect to innocent passage and not to make those duties appear as exceptions to a right of passage of other States. The Commission preferred to follow the method recommended by the 1930 Conference in order to stress the importance it attaches to the right of passage

Article 19

DUTIES OF THE COASTAL STATE

1. The coastal State is bound to use the means at its disposal t ensure respect in the territorial sea for the principle of the freedom o communication and not to allow the said sea to be used for act contrary to the rights of other States.

2. The coastal State is bound to give due publicity to any danger to navigation of which it has knowledge.

Comment

This article confirms the principles which were upheld by the International Court of Justice in its judgment of 9 April 1949 in the Corfu Channel case between the United Kingdom and Albania.[1]

Article 20

RIGHT OF PROTECTION OF THE COASTAL STATE

1. The coastal State may take the necessary steps in the territoria sea to protect itself against any act prejudicial to the security o

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[1] International Court of Justice *Reports 1949*, p. 4 ff.

public policy of that State or to such other of its interests as the territorial sea is intended to protect, and, in the case of vessels pro- eeding to inland waters, against any breach of the conditions to which the admission of those vessels to those waters is subject.

2. The coastal State may suspend temporarily and in definite areas of its territorial sea the exercise of the right of innocent passage on the ground that that is necessary for the maintenance of public order and security. In this case the coastal State is bound to give due publicity to the suspension.

Comment

In the same way as article 5 drafted by Sub-Committee II of the 1930 Conference, this article gives the coastal State the right to verify, if necessary, the innocent character of the passage and to take the steps necessary to protect itself against any act prejudicial to its security public order, customs interests, import, export and transit prohibitions and so forth. In exceptional cases even a temporary suspension of the right of passage is permissible, if compelling reasons connected with public order or general security so require. Although it is arguable that this power was in any case implied in paragraph 1 of the article the Commission considered it desirable to mention it expressly in paragraph 2 which specifies that only a temporary suspension in efinite areas is permissible. The Commission is of the opinion that he article states the international law in force.

Article 21

DUTIES OF FOREIGN VESSELS DURING THEIR PASSAGE

Foreign vessels exercising the right of passage shall comply with the laws and regulations enacted by the coastal State in conformity with hese regulations and other rules of international law and, in particular as regards:

(*a*) The safety of traffic and the protection of channels and buoys
(*b*) The protection of the waters of the coastal State agains pollution of any kind caused by vessels;
(*c*) The protection of the products of the territorial sea;
(*d*) The rights of fishing, hunting and analogous rights belonging to the coastal State.

Comment

International law has long recognized the right of the coastal State to enact in the general interest of navigation special regulation applicable to vessels exercising the right of passage through the territorial sea. The principal powers which international law has hitherto recognized as belonging to the coastal State for this purpose are defined in this article.

1930 Conference contained a second paragraph reading:

> "The coastal State may not, however, apply these rules or regulations in such a manner as to discriminate between foreign vessels of different nationalities, nor, save in matters relating to fishing and shooting, between national vessels and foreign vessels."

By omitting this paragraph, the Commission did not mean to imply that it does not contain a general rule valid in international law. Nevertheless, the Commission considers that certain cases may occur in which special rights granted by one State to another specified State may be fully justified by the special relationship between those two States; in the absence of treaty provisions to the contrary, the grant of such rights cannot be invoked by other States as a ground for claiming similar treatment. The Commission prefers, therefore, that this question should continue to be governed by the general rules of law.

Article 22

CHARGES TO BE LEVIED UPON FOREIGN VESSELS

1. No charge may be levied upon foreign vessels by reason only of their passage through the territorial sea.

2. Charges may only be levied upon a foreign vessel passing through the territorial sea as payment for specific services rendered to the vessel.

Comment

The object of this article is to exclude any charges in respect of general services to navigation (light or conservancy dues) and to allow payment to be demanded only for special services rendered to the vessel (pilotage, towage, etc.). The article states the international law now in force.

As a general rule these charges are applicable on a footing of equality. For reasons analogous to those given for the omission of a second paragraph from article 21, the Commission did not reproduce the words "these charges shall be levied without discrimination" which occurred in the corresponding article drafted by the 1930 Conference.

Article 23

ARREST ON BOARD A FOREIGN VESSEL

1. A coastal State may not take any steps on board a foreign vessel passing through the territorial sea to arrest any person or to conduct any investigation by reason of any crime committed on board the vessel during its passage, save only in the following cases:

(*a*) If the consequences of the crime extend beyond the vessel; or

(*b*) If the crime is of a kind to disturb the peace of the country or the good order of the territorial sea; or

(*c*) If the assistance of the local authorities has been requested by the vessel flies.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign vessel lying in its territorial sea or passing through the territorial sea after leaving the inland waters

3. The local authorities shall in all cases pay due regard to the interests of navigation when making an arrest on board a vessel.

Comment

This article enumerates the cases in which the coastal State may stop a foreign vessel passing through its territorial sea for the purpose of arresting persons or conducting an investigation in connexion with a criminal offence committed on board the vessel during that particular passage. In such a case a conflict of interest occurs: on the one hand there are the interests of shipping which should suffer as little interference as possible; and on the other there are the interests of the coastal State which wishes to enforce its criminal law throughout its erritory. Without prejudice to the coastal State's power to hand the offenders over to its tribunals (if it can arrest them), its power to arrest persons on board ships which are merely passing through the territorial sea may only be exercised in the cases expressly enumerated in the article.

The coastal State has no authority to stop a foreign vessel passing through the territorial sea, without entering inland waters, merely because some person happens to be on board who is wanted by the judicial authorities of that State in connexion with some punishable act committed elsewhere than on board the ship. *A fortiori*, a reques for extradition addressed to the coastal State by reason of an offence committed abroad cannot be considered as a valid reason for stopping the vessel.

In the case of a vessel lying in the territorial sea, the jurisdiction o the coastal State will be regulated by the State's own municipal law and will necessarily be more extensive than in the case of vessels which are simply passing through the territorial sea along the coast. The same observation applies to vessels which have been in one of the ports or navigable waterways of the coastal State; if, for instance, a vesse anchored in a port, or had contact with the land, or took on passengers the powers of the coastal State would be greater. The coastal State however, must always do its utmost to interfere as little as possible with navigation. The inconvenience caused to navigation by the stopping of a large liner outward bound in order to arrest a person lleged to have committed some minor offence on land can scarcely be regarded as of less importance than the interest which the State may have in securing the arrest of the offender Similarly, the judicial authorities of the coastal State should, as far as possible, refrain from arresting any of the officers or crew of the vessel if their absence would make it impossible for the voyage to continue.

of jurisdiction between the coastal State and the flag State in the matter of criminal law, nor does it in any way prejudice their respective rights. The Commission realizes that it would be desirable to codify the law relating to these matters. It appreciates that it is important to determine what tribunal is competent to deal with any criminal proceedings to which collisions in the territorial sea may give rise. The fact that, in keeping with the example of the 1930 Conference, the Commission nevertheless did not formulate express rules concerning this matter, is to be explained by the consideration that in this very broad field the Commission's task must inevitably be limited. Again, the Commission did not deal with the matter of collisions because, since 1952, a convention relating to the subject has been in existence and this convention has not yet been ratified by a considerable number of States; the convention in question is entitled "International Convention for the Unification of Certain Rules relating to Penal Jurisdiction in Matters of Collisions or other Incidents of Navigation" and was signed at Brussels on 10 May 1952.[1] The Commission proposes, however, to study this topic later.

Article 24

ARREST OF VESSELS FOR THE PURPOSE OF EXERCISING CIVIL JURISDICTION

1. A coastal State may not arrest or divert a foreign vessel passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the vessel. A coastal State may not levy execution against or arrest the vessel for the purpose of any civil proceedings save only in respect of obligations or liabilities incurred by the vessel itself in the course or for the purpose of its voyage through the waters of the coastal State.
2. The above provisions are without prejudice to the right of the coastal State in accordance with its laws to levy execution against, or to arrest, a foreign vessel in the inland waters of the State or lying in the territorial sea, or passing through the territorial sea after leaving the inland waters of the State, for the purpose of any civil proceedings.

Comment

In this article the Commission adopted a rule analogous to that governing the exercise of criminal jurisdiction. A vessel which is only navigating the territorial sea without touching the inland waters of the coastal State may in no circumstances be stopped for the purpose of exercising civil jurisdiction in relation to any person on board or of levying execution against or arresting the vessel itself, except as a result of events occurring in the waters of the coastal State during the respect of obligations incurred for the purpose of the voyage.

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[1] This convention (Cmd. 8954), to which the United States is not a party, came into effect Nov. 20, 1955, and has been ratified or adhered to by Burma, Costa Rica, Egypt, France, Haiti, Spain, Switzerland, Vatican City, Viet-Nam, and Yugoslavia.

The article does not attempt to provide a general solution for conflicts of jurisdiction in private law between the coastal State and the flag State. Questions of this kind will have to be settled in accordance with the general principles of private international law and cannot be dealt with by the Commission at this stage of its work. Hence questions of competence with regard to liability under civil law for collisions in the territorial sea are not covered by this article. Two conventions materially affecting questions of civil jurisdiction were drawn up at the Brussels Conference referred to in the comment to the previous article, namely, the International Convention on Certain Rules concerning Civil Jurisdiction in Matters of Collision [1] and the International Convention for the Unification of Certain Rules relating to the Arrest of Sea-going Ships,[2] both dated 10 May 1952. The sole purpose of the article adopted by the Commission is to prohibit the arrest of a foreign vessel passing through the territorial sea for the purpose of exercising civil jurisdiction, except in certain clearly defined cases.

Article 25

GOVERNMENT VESSELS OPERATED FOR COMMERCIAL PURPOSES

The rules contained in the preceding articles of this chapter shal also apply to Government vessels operated for commercial purposes.

Comment

The Commission followed the rules of the Brussels Convention o 1926 [3] concerning the immunity of State-owned vessels; it consider that these rules follow the preponderant practice of States, and ha therefore formulated this article accordingly.

SECTION B: WARSHIPS

Article 26

PASSAGE

1. Save in exceptional circumstances, warships shall have the righ of innocent passage through the territorial sea without previou authorization or notification.

2. The coastal State has the right to regulate the conditions o such passage. It may prohibit such passage in the circumstance envisaged in article 20.

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[1] This convention (Cmd. 8954), to which the United States is not a party, cam into effect Sept. 14, 1955, and has been ratified or adhered to by Costa Rica Egypt, Spain, Switzerland, Vatican City, and Yugoslavia.

[2] This convention (Cmd. 8954), to which the United States is not a party, cam into effect Feb. 24, 1956, and has been ratified or adhered to by Costa Rica Egypt, Haiti, Spain, Switzerland, and Vatican City.

[3] Convention of Apr. 10, 1926; League of Nations Treaty Series, vol. 176, pp 199.

through straits used for international navigation between two parts of the high seas.

Comment

To state that the coastal State will authorize the innocent passage of foreign warships through its territorial sea is but to recognize the existing practice. The above provision is also in conformity with the practice which, without laying down any strict and absolute rule, leaves to the State the power, in exceptional cases, to prohibit the passage of foreign warships through its territorial sea. Hence the coastal State has the right to regulate the conditions of passage. In this respect the terms of article 20, relating to merchantmen, also apply to warships.

The right of passage does not imply that warships are entitled, without special authorization, to stop or anchor in the territorial sea. The Commission did not consider it necessary to insert an express stipulation to this effect for article 17, paragraph 3, applies equally to warships.

The Commission took the view that passage should be granted to warships without prior authorization or notification. Some members of the Commission held however that, under the international law in force, the passage of foreign warships through the territorial sea was a mere concession and hence subject to the consent of the coastal State.

The right of the coastal State to restrict passage is more limited in the case of passage through straits. The International Court of Justice in its judgment of 9 April 1949 in the Corfu Channel case [1] says:

> "It is, in the opinion of the Court, generally recognized and in accordance with international custom that States in time of peace have a right to send their warships through straits used for international navigation beween two parts of the high seas without the previous authorization of a coastal State, provided that the passage is innocent. Unless otherwise prescribed in an international convention, there is no right for a coastal State to prohibit such passage through straits in time of peace."

In inserting paragraph 4, the Commission relied on that judgment.

Article 27

NON-OBSERVANCE OF THE REGULATIONS

1. Warships shall be bound, when passing through the territorial sea, to respect the laws and regulations of the coastal State.

2. If any warship does not comply with the regulations of the coastal State and disregards any request for compliance which may be brought to its notice, the coastal State may require the warship to leave the territorial sea.

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[1] International Court of Justice *Reports, 1949*, pp. 4 ff.

The terms of paragraph 1 do not mean that the exterritoriality o warships is limited in any way during the passage through the territorial sea. The object of the provision is only to emphasize tha while the warship is in the territorial sea of the coastal State the vesse must comply with the laws and regulations of that State concerning navigation, security, health questions, water pollution and the like.

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42. NOTE VERBALE FROM THE REPRESENTATIVE OF THE UNITED STATES AT THE UNITED NATIONS TO THE SECRETARY-GENERAL OF THE UNITED NATIONS, FEBRUARY 3, 1955[1]

The Representative of the United States of America to the Unite Nations presents his compliments to the Secretary-General of the United Nations and has the honor to refer to the note LEG 292/9/01 dated August 31, 1954, from the Principal Director in charge of the Legal Department, concerning the Draft Articles on the Regime of the Territorial Sea of the International Law Commission set out in the Report covering the work of its sixth session, June 3–July 28, 1954.[2]

The Commission prepared a provisional text for all but four of the articles of the proposed draft and requested the comments of Governments on these articles. Among the articles for which no text has ye been drafted is Article 3 concerning the breadth of the territorial sea With respect to this article, the Commission requested views and suggestions which might help it to formulate a concrete proposal.

So far as concerns the articles now drafted, the Government of the United States believes that they constitute, as a whole, a soun exposition of the principles applicable to the regime of the territoria sea in international law. The Government of the United States has however, certain suggestions to make with respect to Articles 5 and 19

Article 5 provides *inter alia* that where circumstances necessitat a special regime because the coast is deeply indented or cut into "o because there are islands in its immediate vicinity" the base line ma be independent from the low-water mark and may be a series o straight lines. The Government of the United States presumes fron the comments which follow the article that it was not intended tha the presence of a few isolated islands in front of the coast would justif *per se* the use of the straight line method. The islands, as the comments indicate, would have to be related to the coast in somewha the same manner as the *skjaergaard* in Norway. In the view of the Government of the United States, the words "or because there ar islands in its immediate vicinity" are too general and do not conve as accurately as desirable what the Commission apparently had i mind.

With respect to Article 19, the Government of the United States i national Court of Justice in its judgment of April 9, 1949, in the Corfu Channel case,[1] but it believes that the comments on this article should include a short statement of the factual circumstances upon which the court was ruling, since such a statement would point up and illustrate the significance and meaning of the principles embodied in Article 19.

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[1] Department of State *Bulletin*, Apr. 25, 1955, pp. 699–700.

So far as concerns the question of the breadth of the territorial sea and the various suggestions set out in paragraph 68 of the Report, the guiding principle of the Government of the United States is that any proposal must be clearly consistent with the principle of freedom of the seas. Some of the proposals amount to a virtual abandonment or denial of that principle. In this connection it must be pointed out that the high seas are an area under a definite and established legal status which requires freedom of navigation and use for all. They are not an area in which a legal vacuum exists free to be filled by individual states, strong or weak. History attests to the failure of that idea and to the evolution of the doctrine of the freedom of the seas as a principle fair to all. The regime of territorial waters itself is an encroachment on that doctrine and any breadth of territorial waters is in derogation of it; so the derogations must be kept to an absolute minimum, agreed to by all as in the interest of all.

That the breadth of the territorial sea should remain fixed at three miles, is without any question the proposal most consistent with the principle of freedom of the seas. The three-mile limit is the greatest breadth of territorial waters on which there has ever been anything like common agreement. Every one is now in agreement that the coastal state is entitled to a territorial sea to that distance from its shores. There is no agreement on anything more. If there is any limit which can safely be laid down as fully conforming to international law, it is the three-mile limit. This point, in the view of the Government of the United States, is often overlooked in discussions on this subject, where the tendency is to debate the respective merits of various limits as though they had the same sanction in history and in practice as the three-mile limit. But neither 6 nor 9 nor 12 miles, much less other more extreme claims for territorial seas, has the same historical sanction and a record of acceptance in practice marred by no protest from other states. A codification of the international law applicable to the territorial sea must, in the opinion of the Government of the United States, incorporate this unique status of the three-mile limit and record its unquestioned acceptance as a lawful limit.

This being established, there remains the problem of ascertaining the status of claims to sovereignty beyond the three-mile limit. The diversity of the claims involved bears witness, in the opinion of the Government of the United States, to the inability of each to command the degree of acceptance which would qualify it for possible consideration as a principle of international law. Not only does each proposed limit fail to command the positive support of any great number of nations, but each has been strongly opposed by other nations. This now in effect in the waters where the claims are made no such clain can be recognized in the absence of common agreement. A codification of the international law applicable to the territorial sea should in the view of the Government of the United States, record the lack o legal status of these claims.

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[1] International Court of Justice *Reports, 1949*, pp. 4 ff.

While unilateral claims to sovereignty or other forms of exclusiv control over waters heretofore recognized as high seas can not be regarded as valid, this is not to say that the reasons, legitimate or otherwise, which motivate such claims should be ignored. In some cases at least, these attempts of the coastal state to appropriate to it exclusive use large areas of the high seas seem to be based on a rea concern for the conservation of the resources of the sea found in suc waters. Efforts of the Commission and of the nations to settle suc problems should be unceasing. But the remedy is not unilatera action in defiance of long established and sound principles of lav pplicable to other matters. In many cases the nations taking suc action would seem to have little to gain from abandonment of suc principles and reversion to a condition of anarchy on the high seas The sounder approach would appear to be an effort to reach agreemen on the principles applicable to the real matters at issue, such as conservation of natural resources and rights to fish.

Review of the Charter [1]

43. STATEMENT BY THE SECRETARY OF STATE BEFORI THE SENATE FOREIGN RELATIONS SUBCOMMITTEE ON THE UNITED NATIONS CHARTER, JANUARY 18, 1954 [2]

The United Nations Charter represents man's most determine nd promising effort to save humanity from the scourge of war and t establish justice between the nations. In negotiating the charte terms, the United States was represented by a distinguished bipartisa delegation, largely drawn from the Congress, and the charter wa ratified by the Senate by almost unanimous vote.

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[1] Article 109 of the charter sets forth procedures for the calling of a genera conference of review. During the General Assembly sessions of 1946, 1947, anc 1948 there was some pressure but little support for revision of the charter. Th United States (1946) was opposed to any "hasty attempt to amend." It was no until the eighth session of the assembly (1953) that any general debate on th subject took place.

In the United States, early pressure for revision or review found expression i the Vandenberg Resolution (S. Res. 239, 80th Cong., 2d sess., June 11, 1948; A *Decade of American Foreign Policy*, p. 197) calling for agreement to restrict th use of the veto and a general strengthening of the United Nations. The Senat

(Footnote continued on next page)

responsible leaders of our Nation, without regard to party, have repeatedly said that the charter represents the cornerstone of U.S. foreign policy.

It must in all frankness be recognized that the high hopes born of the San Francisco conference of 1945 have not been fully realized. This is due to two principal causes.

In the first place, many initial hopes were exaggerated. War is not abolished, and a system of justice inaugurated, merely by strokes of the pen. If that were the case, we would have had international peace and justice long ago. Just and durable peace requires sustained and well-directed efforts comparable in dedication to the efforts needed to win victory in war.

However the written word continues to exert a peculiar fascination, and there is a recurrent tendency to treat as done that which, according to a treaty, ought to be done. Hopes which had only this basis were doomed to be disappointed.

In the second place, many provisions of the charter depended on cooperation by the so-called "great powers," and in fact the members of the Soviet Communist bloc have pursued policies which departed from the spirit, and indeed the language, of the charter.

Nevertheless, the United Nations has a record of conspicuous

Committee on Foreign Relations (S. Rept. 1361, 80th Cong., 2d sess., May 19, 1948) concluded that it would be "unwise to insist at the present time on the revision of the charter."

Two years later, Congress again became concerned regarding revision. There were extensive hearings, but a continuing reluctance to take positive action. On July 28, 1953 the Senate (Res. 126, 83d Cong., 1st sess.) created a special subcommittee to make a "full and complete study of proposals to amend, revise, or otherwise modify or change existing international peace and security organizations, for the purpose of guiding the Senate in the fulfillment of its responsibility . . . to advise the President with respect to the foreign policy of the United States." The Secretary of State informed the subcommittee that the Department of State would support the calling of a review conference when the question came before the United Nations in 1955.

There was vigorous debate in the eighth session of the General Assembly, resulting in the resolution (796 (VIII)) of November 27, 1953 citing the need for charter review and calling upon the Secretary-General to prepare and make public pertinent documents and studies. A proposal to call a general conference to review the charter was on the Assembly agenda for the ninth session (1955).

For background material see: Senate Committee on Foreign Relations, *Reaffirming the Policy of the United States to Achieve International Peace and Security Through the United Nations and Indicating Certain Objectives to be Pursued*, S. Rept. 1361, 80th Cong., 2d sess. (May 19, 1948); Senate Committee on Foreign Relations, *Revision of the United Nations Charter*, S. Rept. 2501, 81st Cong., 2d sess. (Sept. 1, 1950); *U.S. Participation in the U.N.: Report by the President to the Congress for the Year 1953* (Department of State publication 5459; 1954); *Review of the United Nations Charter: A Collection of Documents*, S. Doc. No. 87, 83d Cong., 2d sess.; *Review of the United Nations Charter: Compilation of Staff Studies Prepared for the Use of the Subcommittee on the United Nations Charter of the Committee on Foreign Relations*, S. Doc. No. 164, 83d Cong., 2d sess.; Francis O. Wilcox and Carl M. Marcy (members of staff of Senate Committee on Foreign Relations), *Proposals for Changes in the United Nations*, The Brookings Institution, Washington, D.C., 1955.

[2] Department of State *Bulletin*, Feb. 1, 1954, pp. 170–173.

its processes may be mentioned:

The withdrawal of Soviet forces from Iran;
The support of Greece while under Communist attack;
The conclusion of a permanent armistice between Israel and th Arab States;
The establishment of the Republic of Korea;
The disposition of the Italian colonies in Africa and the creation o the State of Libya;
The establishment of the Republic of Indonesia;
The organization of effective resistance to the armed aggression i Korea.

While the United States bore most of the United Nations burde in Korea, it should not be forgotten that 15 other members contribute armed forces and 46 nations made some form of contribution, eithe military or economic.

Thus, the United Nations became the first international organization to organize effective collective resistance to armed aggression

The United Nations has helped to transform colonialism into self-government. The role played by the United Nations in this matte has been controversial and it is in some respects subject to legitimat criticism. Undoubtedly, however, it has exerted a useful influence i promoting peaceful rather than violent developments.

In addition to political achievements, the United Nations has provided means for economic and social developments which have benefited a large part of the human race.

In addition to its specific accomplishments, the General Assembl has served as a world forum for the presentation of different points o view. It has become a place where world opinion can register an exert a moral authority which no nation, however powerful or despotic, publicly disdains or wholly disregards.

The greatest weakness of the United Nations—and this was foresee at San Francisco—is the Security Council's inability to discharge it "primary responsibility for the maintenance of international peace an security." (article 24). It has not proved practicable for the Security Council to organize the armed forces, assistance, and facilitie which it was contemplated should be put at the disposal of the Security Council (article 43) for the purpose of maintaining international peace and security.

The Council's inability to function as designed has been primaril due to the abuse by the Soviet Union of its so-called veto power

This same veto power has been abused by the Soviet Union to exclude from membership in the United Nations many countries full qualified for membership under the terms of article 4, which provide that the United Nations membership is open to all peace-loving state which accept the obligations contained in the present charter an are able and willing to carry out these obligations.

Nations excluded by the Soviet veto are: Austria, Cambodia, Ceylon

We are now approaching a time when in all probability th a review of the charter with a view to its possible amendmen 109 (3) of the charter provides that a proposal to call such a shall be placed on the agenda of the tenth annual session of tl Assembly, i. e., that of 1955, and present indications are tha conference will be held.

The United States has already indicated that it expects to holding of a review conference.

The Executive welcomes this coordinate action of the studying the problems which will confront such a conferenc

The Executive approaches this conference with an awarei desirability of perfecting the charter, but also with a dete not to lose the good that is in the search for something bet

We have not yet taken any firm position with respect amendments. We defer that until we have further advance studies and ascertained the views of our citizenry and Co of other nations. In this connection, we do not forget th amendments require Senate consent.

Under the circumstances, I shall limit myself to indicatir the major questions which might be brought before the C view Conference and as to which there should be an educa opinion.

1. *Universality*—It is useful that there be an organizatior generally speaking, universal and whose processes run throu world. Otherwise the association takes on the character of a Of course, universality inevitably means bringing togeth whose governments may strongly disagree. This has disac But such an organization maintains contacts between pot mies, affords opportunities to dispel unnecessary misunder and, as President Eisenhower said in his State of the Unio on January 7, 1954,[2] it provides "the only real world forum have the opportunity for international presentation and This process tends, though slowly, to bring about confor common standard.

It is, of course, unlikely that there will be universality ir plete and literal sense of that word. Unfortunately, there a ments or rulers who do not respect the elemental decencie national conduct, so that they can properly be brought organized family of nations. That is illustrated by the reg now rules the China mainland.

Even approximate universality does, of course, carry c advantages. There are bound to be differences of opinion w effectiveness of action.

Doubtless, at the Charter Review Conference, considerat

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[1] With respect to each of the states mentioned, excepting Japan, t of Korea, and Viet-Nam, favorable membership action was eventua in the General Assembly in its Res. 995 (X), adopted Dec. 14, 1955 (*inf*

[2] *Supra*, pp. 77–80.

will perhaps be considered whether article 1, to which I referred above expresses the desirable standards for membership.

In this connection, it should be recalled that articles 5 and 6 permi of suspension and expulsion, although this requires Security Counci action, which in turn is subject to veto.

It seems at the present time that most of the members of the Unite Nations feel that it is better to have even discordant members in th organization rather than to attempt to confine membership to thos who hold the same views.

In this connection, it is to be borne in mind that few nations fo long share the same views about every matter. Where they *do* shar the same security views, or have regional community, they can organize themselves under article 51 (collective security) or under th provisions of articles 52–54 (regional arrangements).

2. *Security*—By the charter (article 24) the Security Council i supposed to exercise "primary responsibility for the maintenance o international peace and security." Can charter changes better enabl 't to discharge that responsibility? Or must that primary responsibility be left to security organizations, the formation of which i authorized by article 51? Or should greater responsibility be give to the General Assembly, where there is no veto?

In this connection I should note the "Uniting for Peace Resolution' of 1950[1] which puts the General Assembly in a position to play a de isive role with reference to peace and security in the event that th Security Council is paralyzed by a veto.

3. *Security Council*—Are the present provisions for membershi and voting in the Security Council conducive to its maximum effectiveness? Should the veto power be taken away in respect of question involving Pacific Settlement of Disputes (chapter VI) and in respec f the Admission of New Members, as recommended by S. R. 23 (80th), the so-called Vandenberg Resolution?[2] Presumably, th United States would itself hesitate to go much further than this i now surrendering its "veto power."

4. *General Assembly Voting*—In the General Assembly, each natio has one vote. Is this the best arrangement? If the General Assembl is to assume greater responsibilities, then should there not be some form of weighted voting, so that nations which are themselves unable t assume serious military or financial responsibilities cannot put thos responsibilities on other nations? Should there be, in some matters a combination vote whereby affirmative action requires both a majority of all the members, on the basis of sovereign equality, and als a majority vote, on a weighted basis, which takes into account population, resources, etc.?

5. *Armament*—Since the charter was adopted, there has been a vas development of possibilities of mass destruction, particularly in term of atomic energy and nuclear weapons.

As one who was at San Francisco in the spring of 1945, I can sa

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[1] *Supra*, pp. 187–192.

[2] *A Decade of American Foreign Policy*, p. 197.

that the charter dealt more positively with the problems th
Perhaps consideration should now be given to the creation o
organ of the United Nations comparable to the Economic a
Council and the Trusteeship Council to deal permanently
problem of armament which carries so hideous a threat to
of the peoples expressed in the preamble to the charter.

In this connection, I emphasize the President's epoc
proposal of December 8, 1953,[1] to the United Nations sugg
creation of an international atomic-energy agency to rec
tributions of normal uranium and fissionable materials and
methods whereby this available material would be allocate
the peaceful pursuits of mankind.

6. *International Law*—In view of the importance of l
accepted standard of international conduct, are the charter
adequate (article 13 (1) (a))? These call on the General
to initiate studies and make recommendations for the p
encouraging the progress and development of internationa
its codification. However, so far little progress has been ma
is a great handicap to world order, because it means that
and recommendations of the United Nations are apt to be
by considerations of political expediency rather than by
international law.

In this connection I recall the late Senator Taft's convict
in the long run the only way to establish peace is to wr
agreed to by each of the nations, to govern the relation
nations with each other and to obtain the covenant of all suc
that they will abide by that law and by decisions made the
(*A Foreign Policy for Americans*, 1951.)

Simultaneous progress on a global scale is presently imp
sharp cleavage with reference to the nature of law. Mo
governments of the world regard "law" as man's effort
moral principles to human affairs. There is thus an objective
of justice which can be appealed to. However, one third of t
population is ruled by those who do not recognize any mora
look upon human "law" as a means whereby those in pow
their objectives and destroy their enemies.

7. The foregoing are the more important charter amendm
which particularly concern the United States. There are
other aspects which are of great concern to other countries.
I refrain from making any statement about those matters at

It is in my opinion important that the United States s
proach this problem of charter review with recognition
charter as it is can be made to serve well the cause of int
peace and justice. The defects in the charter can to a co
extent be corrected by practices which are permissible
charter. Already it is accepted practice that if a permanen

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[1] *Infra*, pp. 2841–2843.

veto despite the fact that article 27 (3) provides for the "affirmative ote of seven members, including the concurring votes of the permanent members."

I have already referred to the "Uniting for Peace Resolution" which gave the Assembly a vetoless authority in security matters.

It is also necessary to bear in mind that much can be done withi the framework of the charter, but without actual dependence upo he procedures of the United Nations itself. I have referred to articl 51, which recognizes the right of collective self-defense. This ha been extensively used. Many nations having similar security interest have banded together through security pacts. There are the Ri Pact,[1] the North Atlantic Treaty,[2] and comparable security arrangements between the United States and other countries in the Wester Pacific.[3] The Soviets have also built their own security system wit a series of so-called treaties with their satellites.[4]

Such arrangements operate free of Security Council veto, althoug self-defense measures are required to be reported to the Securit Council.

I have stated some of the problems which will probably be raised i a 1956 Review Conference, without attempting to give categorica answers. That would, I think, be premature for me. Let me repeat however, that while a Charter Review Conference should be welcome as a means of strengthening the United Nations, difference of opinio about how to do this should not then be pressed to a point such tha the Review Conference would result in undermining the Unite Nations or disrupting it. The United Nations as it is, is better tha no United Nations at all.

It must be borne in mind that, under the present charter, each of th permanent members of the Security Council has a "veto" on amendments which the General Review Conference may propose. Th existence of this veto does not mean that the Review Conference is futility. At San Francisco each of the nations which had joined t draft the Dumbarton Oaks Proposals had a "veto" over changes fro these proposals. Nevertheless, they did not exercise that veto a against changes which were clearly reasonable and demanded b world opinion. We can hope that the same conditions will prevail a the prospective Review Conference. We can reasonably make ou plans on the working hypothesis that no one nation will, in fact, b able arbitrarily to impose changes or to veto changes.

Let me end by reasserting my continuing faith in the Unite Nations. I fully share the view expressed by the Senate in its resolution of June 11, 1948, that it is "the policy of the United States t achieve international peace and security through the United Nations."

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[1] *Infra*, pp. 789–796.

[2] *Infra*, pp. 812–815.

[3] *Infra*, pp. 873–875, 878–880, 885–886, and 897–898.

[4] See *Documents and State Papers*, July 1948 (Department of State publicatio 3171; 1948), pp. 219–249, and *ibid.*, March and April 1949 (publication 3484 1949), pp. 681–684 and 727.

I believe that it lies within our power to advance the great objective of the United Nations provided we are patient, resourceful, and resolute, and inspired by faith that man has the capacity to overcome evil with good.

44. STATEMENT BY THE UNITED STATES REPRESENTATIVE [1] BEFORE THE GENERAL ASSEMBLY, NOVEMBER 17 1955 (Excerpts) [2]

The proposal to call a general conference to review the charter of the United Nations is the only item on our agenda placed there directly by the charter itself. It is a matter of fundamental concern to us all

The United States recalls the circumstances in which the framers of the charter at the San Francisco conference in 1945 drew up the provisions of article 109, which places the matter of a review conference on our agenda. Some of the provisions of the charter were accepted at that time in a spirit of generous compromise despite serious misgivings. A number of the smaller member states accepted the charter in its present form on the assumption that after a period of trial they would have an opportunity to reexamine and reassess its provisions Article 109 was therefore drafted to provide for the automatic placement of the question of a review conference on the agenda of the Tenth Session of the General Assembly. The spirit prevalent at San Francisco resulted in the phrasing of the question in positive terms, and article 109 therefore speaks of inclusion in the agenda of "the proposal to call such a conference." The United States sincerely supported inclusion of article 109 in the charter and considers it a matter of simple fulfillment of an obligation to lend our full support to the calling of a charter review conference.

Governments and peoples of member states in many parts of the world have already contributed much in thought, discussion, and preparatory studies to the problems that might be dealt with at such a conference. The fact that the question of holding a review conference was to come before this Assembly has served as a focus for constructive research and planning.

Within the United States public and official interest in effective implementation by the United Nations of its principles and purposes led to the establishment of a subcommittee of the Senate Foreign Relations Committee to advise the Senate and the President with respect to policy on charter review.[3] Over a 2-year period the committee conducted hearings on this subject throughout our land. In Washington, Akron, Milwaukee, Greensboro, and Louisville, in Des Moines, Minneapolis, and Atlanta, in San Francisco, Denver, country it consulted public officials and representatives from th widest range of business and professional groups, of labor and agricultural associations, of churches and religious organizations, and o private organizations concerned with national and internationa affairs. It heard a representative group of experts in their individua capacities and interested private citizens from every walk of life Concurrently, the committee published thorough staff studies on various aspects of the question.[1]

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[1] Laird Bell.

[2] Department of State *Bulletin*, Dec. 5, 1955, pp. 948–951; see also Mr. Bell's statement of Nov. 21, 1955 (*ibid.*, pp. 951–952).

[3] By S. Res. 126, 83d Cong., 1st sess., adopted July 28, 1953.

. . . .

The United States believes that a review conference should be held The United Nations has become a new and vital force in world affairs Now a period of trial has elapsed and a body of valuable experienc has been built up. Much good can come from a collective scrutiny a the proper time of the rôle, accomplishments, shortcomings, an potentialities of this great instrument. We do not conceive of th ask as merely the narrow consideration of specific verbal changes Neither do we conceive of the task as one of rewriting the charter o changing the basic character of the organization.

Article 109 directs our attention to *review* rather than to *revision* o the charter. A review of the charter could usefully determine whethe or not improvements in the United Nations machinery are desirabl and feasible. We believe it would be valuable to examine procedure and operations within the charter framework as well as to review th charter itself. We need, it seems to us, to take time out from th urgencies of specific problems before us at a regular session to study reflect, and consult on the United Nations system as a whole. W need to consider the machinery, evolution, and potentialities of th United Nations not in the short range as they relate to items on ou agenda but in the long range as they relate to the effectiveness of th organization in the achievement of its basic purposes. The charte has, to the credit of the founders of the United Nations, proved it practicality and workability to a remarkable degree. It has, in suc advances as the Uniting for Peace resolution,[2] proved its flexibility under changing circumstances. But, as the Secretary of State ha reminded us, "Few would contend that it is a perfect instrument, no susceptible to improvement." [3]

Secretary Dulles has called to our attention at this session th epochal developments in the atomic and disarmament fields. Thes developments would seem to justify the reexamination of a charte drafted when the possibilities of atomic warfare were not known a they are today.

Not only have there been new developments in the momentou years since the charter was signed, but some of the expectations an assumptions upon which the charter was based have not been fulfilled visions have operated in a way that was not anticipated. In these respects, too, new comparisons between charter goals and available powers and machinery for their fulfillment deserve our mature consideration.

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[1] See *Review of the United Nations Charter: Compilation of Staff Studies Prepared for the Use of the Subcommittee on the United Nations Charter of the Committe on Foreign Relations*, S. Doc. No. 164, 83d Cong., 2d sess.

[2] General Assembly resolution of Nov. 3, 1950; *supra*, pp. 187–192.

Another pressing reason for such a conference would be, in the view of the United States, to reconsider the method prescribed by the charter for the admission of new members. If, however, as we hope, it now becomes possible to admit a number of states as new members, a conference to review the charter would enable these new members to share with us their wisdom in the improvement of the instrument that defines their obligations.

Good may also come, we believe, from our studying and consulting together on the purposes of the charter in the light of experience and conditions in the world today. At the conference at San Francisco in 1945, deliberations on the fundamentals of peace and justice under a regime of law resulted in a consensus of unprecedented breadth. By its focus on fundamentals, a conference of the kind envisaged in the charter, if held at the proper time, might likewise serve to broaden that consensus. It might serve to strengthen the ties between us and to emphasize the depth of our common needs and purposes.

The United Nations, a decade of experience has shown, derives its greatest strength from the support and understanding of the peoples of the world. The organization occupies a unique position in relation to the moral force of world opinion. It is, in the words of the late Senator Vandenberg, "the town meeting of the world."[1] It is our belief that a conference to review the charter could greatly strengthen that public understanding. We believe, as well, that the weight of informed public opinion based upon such a conference might prove to be a constructive influence in the achievement of agreement to recommended improvements.

If a conference to review the charter is to be successful in broadening our areas of agreement and understanding, if it is to result in improving and strengthening United Nations machinery and processes, two prerequisites would seem to be essential.

In the first place, the conference should be held under favorable international circumstances. Dangers and tensions continue to exist today. If optimum results are to be achieved from charter review, there is need for a more favorable political climate.

In the second place, adequate time must be allowed for the completion of careful and thorough preparatory work. The problems confronting a charter review conference will be Herculean. Patience, wisdom, and statesmanship will be required in making the fullest prior preparations and studies, if we are not to do harm to the United Nations and to relations among states.

The resolution before us, cosponsored by Canada, Ecuador, Iraq, Thailand, the United Kingdom, and the United States,[2] makes ade-

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[1] Phrase employed by Senator Vandenberg in a special statement released Mar. 29, 1945: Arthur H. Vandenberg, Jr., ed., *The Private Papers of Senator Vandenberg* (Boston, 1952), pp. 160–161.

[2] U.N. doc. A/L. 197/Rev. 1.

109 of the charter should be held under auspicious international circumstances; it decides that such a conference shall be held; and i establishes a broadly representative committee to report to th Twelfth Session of the General Assembly with recommendation relating to the time and place of the conference and to its organizatio and procedures. The committee as proposed will have the task o laying the procedural and organizational groundwork for a successfu conference. It will have the further duty of feeling the pulse o international developments to find the propitious time when the conference will be most productive in improving the charter and broadening the consensus among us. Adoption of this resolution by th General Assembly would, in our view, constitute a decision in principle to hold a review conference and contemplates parallel actio in the Security Council at an early date, as provided in the charter

The farseeing men who drafted the charter at San Francisco ha no illusions that it was an immutable document. The provision for amendment were obviously put into it for a purpose. Th charter and the procedures under it have served remarkably well We recognize to the full that there are dangers in any attempt a revision, but we do not see such dangers in a review to determine whether there are any changes that could usefully be made in th harter or in the procedures that have developed under it. Thi Tenth General Assembly offers an opportunity with the least possibl difficulty of instituting the review process. We urge that the Assembly seize this opportunity.

We commend this action to your consideration as the fulfillmen of the expectations of our founders and of the peoples of the worl and as a milestone in the forward movement of the United Nations

45. RESOLUTION 992 (X) OF THE GENERAL ASSEMBLY NOVEMBER 21, 1955[1]

The General Assembly,

Mindful that paragraph 3 of Article 109 of the Charter of th United Nations provides that if a General Conference of the Member of the United Nations for the purpose of reviewing the Charter ha not been held before the tenth annual session of the General Assembly such a conference shall be held if so decided by a majority vote of th Members of the General Assembly and by a vote of any seven member of the Security Council,

Believing that it is desirable to review the Charter in the light o experience gained in its operation,

Recognizing that such a review should be conducted under auspicious international circumstances,

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[1] General Assembly, *Official Records, Tenth Session, Supplement No. 19* (A/3116) p. 49.

2. *Further decides* to appoint a Committee consisting of all the Members of the United Nations to consider, in consultation with the Secretary-General, the question of fixing a time and place for the Conference, and its organization and procedures;

3. *Requests* the Committee to report with its recommendations to the General Assembly at its twelfth session;

4. *Requests* the Secretary-General to complete the publication programme undertaken pursuant to General Assembly resolution 796 (VIII) of 23 November 1953[1] and to continue, prior to the twelfth session of the General Assembly, to prepare and circulate supplements, as appropriate, to the *Repertory of Practice of United Nations Organs;*

5. *Transmits* the present resolution to the Security Council.

Admission of New Members

46. RESOLUTION 817 (IX) OF THE GENERAL ASSEMBLY NOVEMBER 23, 1954[2]

The General Assembly,

Noting the growing general feeling in favour of the universality o the United Nations, membership in which is open to all peace-lovin States which accept the obligations contained in the Charter and, i the judgment of the Organization, are able and willing to carry ou those obligations,

Having considered the report[3] of the Committee of Good Office established by General Assembly resolution 718 (VIII) of 23 Octobe 1953,[4]

Noting that, notwithstanding the best endeavours of the Committe of Good Offices, the problem remains unresolved,

Further noting the views recorded by the Committee of Good Office that possibilities of reaching an understanding remain and that "differ

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[1] General Assembly, *Official Records, Eighth Session, Supplement No. 17* (A/2630), p. 31.

[2] *Ibid., Ninth Session, Supplement No. 21* (A/2890), p. 8.

By 1954 only nine states had been admitted to U.N. membership since 1946 Applications of 19 others were pending. The Soviet veto had been used 2 times to block the admission of 14 of the candidates. Efforts to break the deadlock had been unsuccessful. A Special Committee on Admission of New Members (established by the seventh session of the General Assembly; Res. 620 (VII), Dec. 21, 1952) studied the problem and reported to the eighth session The *Ad Hoc* Political Committee considered the report (A/2400) in Oct. 1953 The General Assembly then established the Committee of Good Offices (Res. 71 (VIII) of 23 Oct. 1953), which reported to the ninth session.

[3] *Ibid., Annexes,* agenda item 21 (A/2720).

[4] *Ibid., Eighth Session, Supplement No. 17* (A/2630), p. 5.

Charter";

1. *Expresses appreciation* of the work and efforts of the Committe of Good Offices;

2. *Decides* to send back to the Security Council the pending applications for membership, together with a full record of the discussion t the present session of the General Assembly, for further consideration and positive recommendations;

3. *Suggests* that the Security Council consider the desirability o invoking the provisions of paragraph 2 of Article 28 of the Charter t help resolve the problem;

4. *Requests* the Committee of Good Offices to continue its efforts

5. *Requests* the Security Council and the Committee of Goo Offices to report to the General Assembly during the present session i possible and in any event during the tenth session.

47. STATEMENT BY THE UNITED STATES REPRESENTATIVE BEFORE THE *AD HOC* POLITICAL COMMITTEE O THE GENERAL ASSEMBLY, DECEMBER 7, 1955[1]

On this question of the admission of new members, the Unite States is guided by three basic principles:

1. To bring into membership all qualified states which apply;
2. To follow the provisions of the charter as to judging the qualifications of the applicants;
3. To avoid thwarting the will of a qualified majority by use in th Security Council of the veto, a voting privilege given to five nation in the expectation that it would only be used in exceptional circumstances. The United States recalls that the Vandenberg resolution, overwhelmingly adopted by the United States Senate in June 1948 expressed the view that there should be agreement never to use th veto to prevent the admission of new members.

Consistent with the foregoing principles, we shall continue to seel the admission of all qualified states which have applied. They would be members already if the great majority had its way. Only the Soviet veto, or threat of veto, bars them.

The recent statement of the Soviet delegate which was carried in a Associated Press dispatch of November 17 that the Soviet Unio would "categorically refuse to consider any proposal" other than on for 18 applicants[3] is an example of a rigid, inflexible attitude which if adopted by all nations, would make it impossible for the Unite

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[1] Department of State *Bulletin*, Dec. 26, 1955, pp. 1068–1069; see also Ambassador Lodge's statements of Nov. 13, 1955 (*ibid.*, pp. 1067–1068) and Dec. 13 1955 (*ibid.*, pp. 1069–1070).

[2] Resolution of June 11, 1948; *A Decade of American Foreign Policy*, p. 197

[3] Albania, Austria, Bulgaria, Cambodia, Ceylon, Finland, Hungary, Ireland Italy, Japan, Jordan, Laos, Libya, Nepal, Outer Mongolia, Portugal, Rumania and Spain.

Nations to function. International relations require some spirit of accommodation and compromise—and this is especially true of the membership problem.

There are six European applicants clearly qualified for membership, namely, Austria, Finland, Ireland, Italy, Portugal, and Spain. There are the seven Asian-African applicants whose membership was ecommended by the Bandung conference[1] for present admission, namely, Cambodia, Ceylon, Japan, Jordan, Laos, Libya, and Nepal. These also are equally clearly qualified.

All of these 13 we support. We believe that there are other qualified applicants. For example, we do not believe that the Republic of Korea should be barred from membership merely because part of its territory is wrongfully and forcefully detached from the authority of what this General Assembly has held to be the only lawfully elected government in Korea. The Republic of Viet-Nam is another qualified applicant, barred only by Soviet veto.

We shall not support in any form the applications made for Albania, Bulgaria, Hungary, Outer Mongolia, and Rumania. In our opinion the governments of these states are not now independent and their present subject status constitutes, or derives from, a violation of treaties and other international engagements.

The United States recognizes, however, that the issues before us are those about which there can be honest differences of opinion. For this reason, among others, it is not our intention to use the veto in the Security Council to thwart what may be the will of a qualified majority in the Security Council and in the General Assembly in relation to the subject matter of the joint resolution. Should this bring before the Security Council resolutions on admission which, in our opinion, involve infractions of the charter, we shall, in accordance with the spirit of the Vandenberg resolution, abstain from voting so as not to exercise, on this question of admissions, the veto power.

We shall abstain from voting on the joint resolution now before us [U.N. doc. A/AC. 80/L. 3/Rev. 1][2] because, while in form this resolution only requests the Security Council to "consider" certain applications some practical interpretations of that resolution are such that we hesitate to vote for it lest that might seem to involve us in a departure from our principles enumerated above.

We earnestly hope that out of the present discussion will come the admission of those qualified states whose exclusion clearly violates our charter and whose presence amongst us will add greatly to the wisdom of our councils and to the weight of moral authority which is exercised by this organization.

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[1] The Afro-Asian conference held at Bandung, Indonesia, Apr. 18–24, 1955 for the text of the Final Communiqué of the conference, see *infra*, pp. 2344–2352

[2] *Infra.*

48. RESOLUTION 918 (X) OF THE GENERAL ASSEMBLY DECEMBER 8, 1955 [1]

The General Assembly,

Having noted the general sentiment which has been expressed on numerous occasions in favour of the widest possible membership of the United Nations,

Having received the preliminary report (A/2973) of the Committee of Good Offices established by General Assembly resolution 718 (VIII) of 23 October 1953,[2]

Taking into account the statements about the admission of new Members made by permanent members of the Security Council in the general debate at the present session of the General Assembly,

Believing that a broader representation in the membership of the United Nations will enable the Organization to play a more effective role in the current international situation,

1. *Expresses appreciation* of the work and efforts of the Committee of Good Offices;

2. *Requests* the Security Council to consider, in the light of the general opinion in favour of the widest possible membership of the United Nations, the pending applications for membership of all those eighteen countries about which no problem of unification arises;

3. *Requests further* that the Security Council make its report on these applications to the General Assembly during the present session

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49. RESOLUTION 995 (X) OF THE GENERAL ASSEMBLY, DECEMBER 14, 1955 [3]

The General Assembly,

Having received the recommendation of the Security Council of 14 December 1955 [4] that the following countries should be admitted to membership in the United Nations: Albania, Jordan, Ireland Portugal, Hungary, Italy, Austria, Romania, Bulgaria, Finland Ceylon, Nepal, Libya, Cambodia, Laos, and Spain,

Having considered the application for membership of each of these countries,

Decides to admit the above-mentioned sixteen countries to member ship in the United Nations.

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[1] General Assembly, *Official Records, Tenth Session, Supplement No. 19* (A/3116) p. 8.

[2] *Ibid., Eighth Session, Supplement No. 17* (A/2630), p. 5.

[3] *Ibid., Tenth Session, Supplement No. 19* (A/3116), p. 50.

[4] U. N. doc. S/3509, Dec. 14, 1955.

STATE TO THE PRESS, DECEMBER 15, 1955 [1]

The United States is greatly pleased that despite continued Soviet obstruction over the past 9 years, including the casting of 44 vetoes on admission of new members, 12 free nations have at long last taken their rightful place in the United Nations.

These countries have a great contribution to make to this world body and should increase considerably the vitality and usefulness of the organization.

One glaring injustice remains. As Ambassador [John M.] Allison informed the Japanese Foreign Minister early today,[2] we are extremely sorry that the Soviet Union has once again seen fit to veto Japan's admission to the United Nations. Japan's just claim to membership, which the United States has consistently and actively supported, has again been frustrated by the Soviet Union. The cynical action of the Soviet Union was in defiance of the recognition by the overwhelming majority of the present members of the United Nations that Japan is fully eligible for membership under the charter. It is clear that the Soviet Union in vetoing Japan has sought only to preserve for itself a bargaining pawn. We think the opinion of the world will know how to appraise this self-serving tactic.

Ambassador Lodge made every effort yesterday to bring about the seating of Japan,[3] and the United States will continue to urge upon the United Nations the admission of Japan, which, like the other free nations already admitted, has a considerable contribution to make to the effectiveness of the organization. Indeed, it is not too late to hope that the Soviet Union will yield to the tremendous pressure of world opinion and withdraw its veto of Japan. There is still time to do this if the Soviet Union will but recognize the injustice of Japan's exclusion.

Question of the Representation of China

51. RESOLUTION 490 (V) OF THE GENERAL ASSEMBLY, SEPTEMBER 19, 1950 [4]

The General Assembly,

Taking note of differences of view concerning the representation of China in the United Nations,

Establishes a Special Committee consisting of seven Members to consider the question of Chinese representation and to report back, with recommendations, to the present session of the Genera Assembly, after the Assembly shall have considered item 62 of the provisional agenda (item proposed by Cuba);[2]

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[1] Department of State *Bulletin*, Dec. 26, 1955, pp. 1071–1072.

[2] Not printed.

[3] See the Department of State *Bulletin*, Dec. 26, 1955, pp. 1072–1073.

[4] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775), p. 79.

Resolves that, pending a decision by the General Assembly on the report of this Special Committee, the representatives of the Nationa Government of China shall be seated in the General Assembly with the same rights as other representatives.

52. RESOLUTION 396 (V) OF THE GENERAL ASSEMBLY, DECEMBER 14, 1950 [3]

The General Assembly,

Considering that difficulties may arise regarding the representatio of a Member State in the United Nations and that there is a risk tha conflicting decisions may be reached by its various organs,

Considering that it is in the interest of the proper functioning of th Organization that there should be uniformity in the procedure appli cable whenever more than one authority claims to be the governmen entitled to represent a Member State in the United Nations, and thi question becomes the subject of controversy in the United Nations,

Considering that, in virtue of its composition, the General Assembl is the organ of the United Nations in which consideration can best b given to the views of all Member States in matters affecting the func tioning of the Organization as a whole,

1. *Recommends* that, whenever more than one authority claims to b the government entitled to represent a Member State in the Unite Nations and this question becomes the subject of controversy in th United Nations, the question should be considered in the light of th Purposes and Principles of the Charter and the circumstances of eac case;

2. *Recommends* that, when any such question arises, it should b considered by the General Assembly, or by the Interim Committee i the General Assembly is not in session;

3. *Recommends* that the attitude adopted by the General Assembl or its Interim Committee concerning any such question should b taken into account in other organs of the United Nations and in th specialized agencies;

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[1] On Dec. 12, 1950, the General Assembly elected the following states to th Special Committee: Canada, Ecuador, India, Iraq, Mexico, the Philippine and Poland (*ibid.*).

[2] Item 61 of the agenda as approved by the General Assembly (note in *Offici Records*). On Oct. 16, 1951, the Special Committee reported that it was unabl to make any recommendation (U.N. doc. A/1923). On Nov. 5, 1951, the Genera Assembly took note of the Special Committee's report (Res. 501 (V); *Offici Records, Fifth Session, Supplement No. 20A* (A/1775/Add. 1), p. 2).

[3] General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775) pp. 24–25.

Interim Committee concerning any such question shall not of itself affect the direct relations of individual Member States with the State concerned;

5. *Requests* the Secretary-General to transmit the present resolution to the other organs of the United Nations and to the specialized agencies for such action as may be appropriate.

53. SENATE RESOLUTION 36 (82d CONGRESS, 1st SESSION), JANUARY 23, 1951[1]

Resolved, That it is the sense of the Senate that the Communist Chinese Government should not be admitted to membership in the United Nations as the representative of China.

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54. STATEMENT BY THE SECRETARY OF STATE, NOVEMBER 13, 1951[2]

I arise to speak in support of the recommendation of the General Committee. This recommendation would leave the representation of China during this sitting in Paris as it is at the present time and would enable us to go on with our business without further obstruction from this question.

I think that the minds of all of us—or almost all of us, at any rate—revolt at the necessity of the proposal even that we should be called upon to debate and consider here the seating of a regime at the very moment when that regime is engaged in defying to the greatest extent that it possibly can the authority of this General Assembly and of this world organization; at a time when that regime is engaged with its troops in killing the countrymen of at least a score of delegations seated in this hall—those countrymen are defending the cause, the prestige, the honor of the United Nations, and the cause of world peace—that we should consider this at a time when this regime is under indictment by this very organization in which it is now proposed to sit—under indictment as a party to aggression in Korea; that we should consider seating this regime at the time when its international conduct is so low that it would take considerable improvement to raise it to the general level of barbarism.

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[1] *Congressional Record,* vol. 97, p. 558.

[2] Department of State *Bulletin,* Dec. 3, 1951, p. 917; see also statement of Nov. 10, 1951, by Ambassador Austin (*ibid.*). On Nov. 10, 1951, the General Committee adopted a Thai resolution recommending that the Assembly reject the Soviet request to include the question of Chinese representation on the agenda for the sixth session. After Secretary Acheson's remarks, the Assembly accepted the General Committee's recommendation (Nov. 13, 1951). See *United States Participation in the United Nations; Report by the President to the Congress for the Year 1951* (Department of State publication 4583; 1952), pp. 83–84.

Unprecedented? This is almost the 90th vote. It is between th 88th and 90th time that this question has come up and has been deal with in this way. Is that unprecedented? How many precedent do we need to have something unprecedented? No, this is the wa in which this question has been dealt with every time it has arisen i any organ of the United Nations and has permitted each organ whic has disposed of it to get on with its business, to do its work, and no be obstructed with this sort of impediment. Therefore, I urge yo to end this matter now for this sitting in Paris and vote to uphol the wise and sound recommendation of the General Committee.

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55. RESOLUTION 609A (VII) OF THE GENERAL ASSEMBLY OCTOBER 25, 1952 [1]

The General Assembly

1. *Approves* the first report of the Credentials Committee;[2]

2. *Decides* to postpone for the duration of its seventh sessio consideration of all proposals to exclude the representatives of th Government of the Republic of China and to seat representatives o the Central People's Government of the People's Republic of China

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56. DEPARTMENT OF STATE APPROPRIATION ACT, AUGUST 5, 1953 (Excerpt) [3]

SEC. 111. It is the sense of the Congress that the Communis Chinese Government should not be admitted to membership in th United Nations as the representative of China.

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57. STATEMENT BY THE SECRETARY OF STATE, SEPTEMBER 15, 1953 [4]

I move that the General Assembly postpone for the duration of th eighth session for the current year the consideration of any proposal to unseat the representatives of the National Government of th

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[1] General Assembly, *Official Records, Seventh Session, Supplement No. 2* (A/2361), p. 1. See also *U. S. Participation in the U. N.: Report by the Presiden to the Congress for the Year 1952* (Department of State publication 5034; 1953) p. 94.

[2] General Assembly, *Official Records, Seventh Session, Annexes,* agenda item (A/2234).

[3] 67 Stat. 372; see also report of July 10, 1953, by the House Committee o Foreign Affairs in *Review of the United Nations Charter: A Collection of Document* (S. Doc. No. 87, 83d Cong., 2d sess.), pp. 179–182.

[4] Department of State *Bulletin*, Sept. 28, 1953, pp. 412–413. Secretary Dulles motion was adopted the same day (Res. 800 (VIII); General Assembly, *Officia*

Peoples' Government to represent the Republic of China.

I make this procedural motion of postponement so that
ahead with the regular work of this Assembly in our prese
We know that 3 years ago the Chinese Communists interv
their armed forces as aggressors, as participants in the C
scheme to overpower and seize the Republic of Korea. T
aggression has been found by the United Nations.[1] After u
and heartbreaking delays in negotiations to halt the fightin
stice was finally concluded about 6 weeks ago[2] and that
was welcomed throughout the world, nowhere more th
United States. But the armistice has not solved all the
that were created by the Communist aggression in Kore
forces of Communist China still remain in Korea. The
is yet to be terminated and the peace secured. The Chi
munists have not shown in this matter convincing evid
genuine intention to end the aggression and to make p
moreover, their continued actions elsewhere in Asia are
reassuring.

Therefore, I submit that, as things stand now, we shoul
consider any proposals for the representation of the Chi
munist aggressors in this Assembly, and following the p
earlier sessions I urge prompt adoption of the motion to
consideration.

Let me add the fact that that motion I propose deals
current year and should not be interpreted as indicating an
tion on the part of the United States to change its positio
current year. It is merely that we believe that it is approp
a body of this character should deal with one year at a tim

58. ADDRESS BY THE UNITED STATES PERMANENT SENTATIVE AT THE UNITED NATIONS, APRIL

(Excerpt)[3]

The United Nations is a place to develop the truth, how
it may be, about the Chinese Communists. We have c
stressed that the Chinese Communist regime is unfit for r
tion in the United Nations

—because it has repeatedly expressed open contempt fo
poses and principles of the United Nations, and the judgme
international community;

—because it stands convicted by the United Nations as a

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[1] See General Assembly Res. 498 (V), Feb. 1, 1951; *infra*, pp. 2608

[2] Armistice agreement of July 27, 1953; *infra*, pp. 724–750.

[3] Department of State *Bulletin*, May 10, 1954, p. 724. This add
Lodge was delivered at the annual luncheon of the members of the
Press, New York City.

'n Korea where it killed and wounded many thousands of America and other soldiers who were defending peace;

—because it continues to support aggression in Indochina, by givin substantial aid and by furnishing advisers and technicians to the Vie Minh forces;

—because it occupied defenseless Tibet and seized control of it government and resources;

—because it sponsors guerrilla and subversive movements i Malaya, and throughout the rest of Southeast Asia;

—because it committed dreadful atrocities against Americans an others fighting for the United Nations in Korea, and subjected pris oners to physical and mental cruelty in seeking to extort militar secrets and confessions of alleged guilt;

—because it still holds 32 American civilians under barbarous con ditions without published charges, and subjects these innocent mis sionaries, journalists, and business men to cruel and inhuman treatment;

—because it wilfully fabricated and publicized false evidence o spurious germ warfare charges designed to blacken the reputation o the United States, and otherwise carries on a deliberate "hate America" propaganda campaign;

—because it has executed millions of its captive subjects and force ther millions into slave labor;

—and because it even stoops to an international extortion racke in squeezing millions of dollars from overseas Chinese who try to bu safety and protection for their relatives at home.

The exposure of the terrible ways in which the Chinese Communist violate the normally accepted standards of international conduct ha so horrified many decent people that this regime has never eve gotten a toehold on the threshold of the United Nations. Since 1949 United Nations bodies have refused over 150 times to seat the Chines Communists. I can promise you that the United States will stead fastly resist all maneuvers by the Chinese Communist regime and it dvocates to bribe its way into the United Nations on mere promise of good behavior in the future. To admit to the United Nations thi regime which believes in war as an instrument of national policy woul be the first time in its history that the United Nations had deliberatel decided to stultify itself by flagrantly acting in contradiction of it primary and basic purpose to "save succeeding generations from th scourge of war."

[*For the text of Secretary Dulles' remarks of July 8, 1954, regarding th question of Chinese representation in the United Nations, see th Department of State* Bulletin, *July 19, 1954, pp. 87–89.*]

59. STATEMENT BY THE UNITED STATES REPRESENTATIVE BEFORE THE UNITED NATIONS GENERAL ASSEMBLY, SEPTEMBER 21, 1954 (Excerpt)[2]

. . . .

Now, Madam President, for reasons which are well known, the United States will not engage in a discussion of the substance of this question that has been raised by the representative of the Soviet Union. Indeed, we will make a motion as follows: I move that the Assembly decide not to consider at its Ninth Session during the current year any proposals to exclude the representatives of the Governmen of the Republic of China or to seat representatives of the Central People's Government of the People's Republic of China.

Logically, this motion takes precedence over the Soviet proposal, and therefore I ask that rule 93 of the Rules of Procedure be invoked. This rule reads as follows: "If two or more proposals relate to the same question, the General Assembly shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The General Assembly may after each vote on a proposal decide whether to vote on the next proposal." That is the end o rule 93.

That rule, you will observe, gives the Assembly the power to decide questions of precedence, and I accordingly ask the Assembly to decide to vote first on my motion. Put that first, and then I will ask to vote on the motion itself.

I therefore ask the chair to put the following proposal to the Assembly, that the Assembly decides to consider first the motion just offered by the representative of the United States. Then after that motion has been voted on, it would then be in order to vote on the substantial proposal which I have made.[4]

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[1] Henry Cabot Lodge, Jr.

[2] Department of State *Bulletin*, Oct. 4, 1954, p. 507. Similar action was taken at the tenth session of the General Assembly; see Ambassador Lodge's statement of Sept. 20, 1955 (*ibid.*, Oct. 3, 1955, pp. 544–545) and Res. 990 (X) (General Assembly, *Official Records, Tenth Session, Supplement No. 19* (A/3116), p. 49).

[3] The Soviet draft resolution (U. N. doc. A/L. 176) proposed that representatives of the People's Republic of China take the seat of China in the General Assembly and in other organs of the United Nations. [Footnote in Departmen of State *Bulletin*.]

[4] The Assembly decided to consider the U.S. motion first, by a vote of 45–7 (Burma, Byelorussia, Czechoslovakia, Poland, Sweden, Ukraine, U. S. S. R.) with 5 abstentions. The U.S. draft resolution (U. N. doc. A/L. 177) was then approved by a vote of 43–11 (Burma, Byelorussia, Czechoslovakia, Denmark India, Norway, Poland, Sweden, Ukraine, U. S. S. R., Yugoslavia), with 6 abstentions. [Footnote in Department of State *Bulletin*.] The resoluton as adopted was designated Res. 903 (IX); General Assembly, *Official Records, Ninth Session Supplement No. 21* (A/2890), p. 55.

60. ADDRESS BY THE PRESIDENT BEFORE THE GENERAL ASSEMBLY, OCTOBER 24, 1950[1]

Five years ago today, the Charter of the United Nations came into force. By virtue of that event, October 24, 1945, became a great day in the history of the world.

Long before that day, the idea of an association of nations able to keep the peace had lived as a dream in the hearts and minds of men Woodrow Wilson was the author of that idea in our time. The organization that was brought into being on October 24, 1945 represents our greatest advance toward making the dream a reality

The United Nations was born out of the agony of war—the most terrible war in history. Those who drew up the Charter really had less to do with the creation of the United Nations than the millions who fought and died in that war. We who work to carry out its great principles should always remember that this organization owes its existence to the blood and sacrifice of millions of men and women. It is built out of their hopes for peace and justice.

The United Nations represents the idea of a universal morality superior to the interests of individual nations. Its foundations do not rest upon power or privilege but upon faith. They rest upon the faith of men in human values—upon the belief that men in every land hold the same high ideals and strive toward the same goals of peace and justice.

This faith is deeply held by the people of the United States o America and, I believe, by the peoples of all other countries. Governments may sometimes falter in their support of the United Nations but the peoples of the world do not falter. The demand of men and women throughout the world for international order and justice i one of the strongest forces in these troubled times.

We have just had a vivid demonstration of that fact in Korea. The invasion of the Republic of Korea was a direct challenge to the principles of the United Nations. That challenge was met by an overwhelming response. The people of almost every member country upported the decision of the Security Council to meet this aggression with force. Few acts in our time have met with such widespread approval.

In uniting to crush the aggression in Korea, these member nation ave done no more than the Charter calls for. But the importan thing is that they have done it and have done it successfully. They have given dramatic evidence that the Charter works. They hav proved that the Charter is a living instrument backed by the materia and moral strength of members, large and small.

The men who laid down their lives for the United Nations in Kore will have a place in our memory, and in the memory of the world

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[1] Department of State *Bulletin*, Nov. 6, 1950, pp. 719–722.

As a result of their sacrifices, the United Nations today is stronger than it has ever been. Today it is better able than ever before to fulfill the hopes that men have placed in it.

I believe the people of the world rely on the United Nations to help them achieve two great purposes. They look to it to help them improve the conditions under which they live. And they rely on it to fulfill their profound longing for peace.

These two purposes are closely interwoven. Without peace, it is impossible to make lasting progress toward a better life for all Without progress in human welfare, the foundations of peace will be insecure. That is why we can never afford to neglect one of these purposes at the expense of the other.

Throughout the world today, men are seeking a better life. They want to be freed from the bondage and the injustice of the past. They want to work out their own destinies. These aspirations of mankind can be met—met without conflict and bloodshed—by international cooperation through the United Nations.

To us in this assembly hall the United Nations that we see and hear is made up of speeches, debates, and resolutions. But to millions of people the United Nations is a source of direct help in their everyday lives. To them it is a case of food or a box of schoolbooks; it is a doctor who vaccinates their children; it is an expert who shows them how to raise more rice, or more wheat, on their land; it is the flag which marks a safe haven to the refugee, or an extra meal a day to a nursing mother.

These are not the only ways in which the United Nations helps people to help themselves. It goes beyond these material things and gives support to the spiritual values of men's lives. The United Nations can and does assist people who want to be free. It helps dependent peoples in their progress toward self-government. And when new nations have achieved independence, it helps them to preserve and develop their freedom.

Furthermore, the United Nations is strengthening the concept of the dignity and worth of human beings. The protection of human rights is essential if we are to achieve a better life for people. The effort of the United Nations to push ahead toward an ever broader realization of these rights is one of its most important tasks.

So far, this work of the United Nations for human advancement is only a beginning of what it can be and will be in the future. The United Nations is learning through experience. It is growing in prestige among the peoples of the world. The increasing effectiveness of its efforts to improve the welfare of human beings is opening up a new page in history.

The skills and experience of the United Nations in this field will be put to the test now that the fighting in Korea is nearly ended. The reconstruction of Korea as a free, united, and self-supporting nation is an opportunity to show how international cooperation can lead to gains in human freedom and welfare.

tant as it is, can be fully effective only if we can achieve the other great objective of the United Nations, a just and lasting peace. A the present time the fear of another great international war overshadows all the hopes of mankind. This fear arises from the tension between nations and from the recent outbreak of open aggression i Korea. We in the United States believe that such a war can b prevented. We do not believe that war is inevitable. One of th strongest reasons for this belief is our faith in the United Nations.

The United Nations has three great roles to play in preventing wars

First: it provides a way for negotiation and the settlement o disputes among nations by peaceful means.

Second: it provides a way of utilizing the collective strength o member nations, under the Charter, to prevent aggression.

Third: it provides a way through which, once the danger of aggression is reduced, the nations can be relieved of the burden of armaments

All of us must help the United Nations to be effective in performin these functions.

The Charter obligates all of us to settle our disputes peacefully Today is an appropriate occasion for us solemnly to reaffirm ou obligations under the Charter.

Within the spirit and even the letter of the Charter we should g even further. We must attempt to find peaceful adjustments o underlying situations or tensions before they harden into actua disputes.

The basic issues in the world today affect the fate of millions Here, in the United Nations, there is an opportunity for the large an the small alike to have their voices heard on these issues. Here th interests of every country can be considered in the settlement of problems which are of common concern.

We believe that negotiation is an essential part of this peacefu process. The United States, as one of the members of the Unite Nations, is prepared now, as always, to enter into negotiations We insist only that negotiations must be entered into in good fait and be governed throughout by a spirit of willingness to reach prope solutions.

While we will continue to take advantage of every opportunity—here in the United Nations and elsewhere—to settle differences b eaceful means, we have learned from hard experience that we canno rely upon negotiation alone to preserve the peace.

Five years ago, after the bloodshed and destruction of World Wa II, many of us hoped that all nations would work together to make sur that war could never happen again. We hoped that internationa cooperation, supported by the strength and moral authority of th United Nations, would be sufficient to prevent aggression.

But this was not to be the case.

Although many countries promptly disbanded their wartime armie other countries continued to maintain forces so large that they pose a constant threat of aggression. And this year the invasion o

In these circumstances the United Nations, if it is to be an effective instrument for keeping the peace, has no choice except to use the collective strength of its members to curb aggression.

To do so, the United Nations must be prepared to use force. The United Nations did use force to curb aggression in Korea and by so doing has greatly strengthened the cause of peace. I am glad that additional steps are being taken at this session to prepare for quick and effective action in any future case of aggression.

The Resolution on United Action for Peace[1] which is now being considered by the General Assembly recognizes three important principles:

To maintain the peace, the United Nations must be able to learn the facts about any threat of aggression. Next, it must be able to call quickly upon the member nations to act if the threat becomes serious.

Above all, the peace-loving nations must have the military strength available, when called upon, to act decisively to put down aggression.

The peace-loving nations are building that strength.

However much they may regret the necessity, they will continue to build up their strength until they have created forces strong enough to preserve peace under the United Nations. They will do all that is required to provide a defense against aggression. They will do that because, under the conditions which now exist in the world, it is the only way to maintain peace.

We intend to build up strength for peace as long as that is necessary. But at the same time we must continue to strive, through the United Nations, to achieve international control of atomic energy and the reduction of armaments and armed forces. Cooperative and effective disarmament would make the danger of war remote. It would be a way of achieving the high purposes of the United Nations without the tremendous expenditures for armaments which conditions in the world today make imperative.

Disarmament is the course which the United States would prefer to take. It is the course which most nations would like to adopt. It is the course which the United Nations from its earliest beginnings has been seeking to follow.

For nearly five years, two commissions of the United Nations have been working on the problem of disarmament.[2] One commission has been concerned with the elimination of atomic weapons and the other with the reduction of other types of armaments and of armed forces. Thus far, these commissions have not been successful in obtaining agreement among all the major powers. Nevertheless, these years of basic principles upon which any successful plan of disarmament mus rest.

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[1] *Supra*, pp. 187–192.

[2] The U.N. Atomic Energy Commission, established by a General Assembly resolution of Jan. 24, 1946 (*A Decade of American Foreign Policy*, pp. 1078–1079), and the Commission for Conventional Armaments, established by a Security Council resolution of Feb. 13, 1947 (*ibid.*, pp. 1138–1139).

First, the plan must include all kinds of weapons. Outlawing an particular kind of weapon is not enough. The conflict in Korea bear tragic witness to the fact that aggression, whatever the weapons used brings frightful destruction.

Second, the plan must be based on unanimous agreement. A majority of nations is not enough. No plan of disarmament can worl unless it includes every nation having substantial armed forces. One ided disarmament is a sure invitation to aggression.

Third, the plan must be foolproof. Paper promises are not enough Disarmament must be based on safeguards which will insure the compliance of all nations. The safeguards must be adequate to give immediate warning of any threatened violation. Disarmament must b policed continuously and thoroughly. It must be founded upon fre and open interchange of information across national borders.

These are simple, practical principles. If they were accepted anc carried out, genuine disarmament would be possible.

It is true that, even if initial agreement were reached, tremendou difficulties would remain. The task of working out the successiv steps would still be a complex one and would take a long time and mucl ffort. But the fact that this process is so complex and so difficul is no reason for us to give up hope of ultimate success.

The will of the world for peace is too strong to allow us to give u in this effort. We cannot permit the history of our times to recor that we failed by default. We must explore every avenue which offer any chance of bringing success to the activities of the United Nation in this vital area.

Much valuable work has already been done by the two disarmamen commissions on the different technical problems confronting them. believe it would be useful to explore ways in which the work of thes commissions could now be more closely brought together. One possibility to be considered is whether their work might be revitalized i carried forward in the future through a new and consolidated disarmament commission.

But, until an effective system of disarmament is established, let u be clear about the task ahead. The only course the peace-loving nations can take in the present situation is to create the armament needed to make the world secure against aggression.

That is the course to which the United States is now firmly committed. That is the course we will continue to follow as long as it i necessary.

The United States has embarked upon the course of increasing it armed strength only for the purpose of helping to keep the peace We pledge that strength to uphold the principles of the Charter of th United Nations. We believe that the peace-loving members of th United Nations join us in that pledge.

I believe that the United Nations, strengthened by these pledges will bring us nearer to the peace we seek. We know that the difficulties ahead are great. We have learned from hard experience that there s no easy road to peace.

We have the solemn obligation to the peoples we represent to continue our combined efforts to achieve the strength that will prevent aggression. At the same time, we have an equally solemn obligation to continue our efforts to find solutions to the major problems and issues that divide the nations. The settlement of these differences would make possible a truly dependable and effective system for the reduction and control of armaments.

Although the possibility of attaining that goal appears distant today, we must never stop trying. For its attainment would release immense resources for the good of all mankind. It would free the nations to devote more of their energies to wiping out poverty, hunger and injustice.

If real disarmament were achieved, the nations of the world, acting through the United Nations, could join in a greatly enlarged program of mutual aid. As the cost of maintaining armaments decreased every nation could greatly increase its contributions to advancing human welfare. All of us could then pool even greater resources to support the United Nations in its war against want.

In this way, our armaments would be transformed into foods medicine, tools for use in underdeveloped areas, and into other aids for human advancement. The latest discoveries of science could be made available to men all over the globe. Thus we could give real meaning to the old promise that swords shall be beaten into plowshares and that the nations shall not learn war any more.[1]

Then man can turn his great inventiveness, his tremendous energies and the resources with which he has been blessed to creative efforts Then we shall be able to realize the kind of world which has been the vision of man for centuries.

This is the goal which we must keep before us—and the vision in which we must never lose faith. This will be our inspiration, and with God's help, we shall attain our goal.

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61. ADDRESS BY THE SECRETARY OF STATE BEFORE THE GENERAL ASSEMBLY, SEPTEMBER 17, 1953 [2]

It is an honor for me to be with you again. As one of the founding group at San Francisco, I shared in the hopes and the labors which brought this Organization into existence. I have served on most of the previous General Assemblies. In this new Assembly I am fortified the opportunities which this Organization provides. President Eisenhower has a deep and abiding faith in the United Nations. He has often said so, and he has asked me to say it again. He wants the United Nations to become an increasingly effective instrument of peace.

The U.S. delegation will work here in that spirit. We shall state as clearly as possible what we deem to be the just and right solution of the problems we shall here encounter. We do not think that the United States ought to be ambiguous about the problems of our time But also we adhere to the basic United States belief expressed in our Declaration of Independence that we owe "a decent respect to the opinions of mankind." We are ready to learn from others. Also we recognize that our views may not always prevail. When that happens we shall no doubt regret it, but we shall not sulk. We shall try to accept the result philosophically, recognizing that we have no monopoly of wisdom or virtue, also that sometimes the passage of time alone provides the final verdict.

We shall have in mind the charter mandate to this Organization 'to be a center for harmonizing the actions of nations." Never was the need for such harmony more urgent. Never were the consequences of disharmony so menacing. Yet the fact of tension cannot be ignored That would be dangerously unrealistic. Also the causes of that tension will have to be explored. Otherwise there can be no cure. But, in whatever it does here, the United States will seek to avoid any word or deed which might needlessly aggravate the present state of dangerous tension.

The primary purpose of the United Nations is to maintain international peace and security. Yet for over 3 years there was a war in Korea. A war in Indochina still goes on. Nowhere is there a sense of security. Because of these things some say that the United Nations has failed.

We must admit that the United Nations has not realized all the hopes that were held for it. That is largely because many of those hopes were unrealistic. They arose from underestimating the profound difficulties which lie in the way of establishing an international order of peace and justice.

The United Nations was built largely on the expectation that the leaders of the Grand Alliance, who had worked together for victory would continue voluntarily to work together for peace. That expectation proved ill-founded. The alliance was the product of Fascist danger, and, when that threat was battered down, allied unity disappeared to be replaced by new division and new fears. These reached a peak when the Korean aggression occurred.

It is to the eternal credit of the United Nations that it was not then armed aggression. That fact may have profound consequences. I may open new avenues to peace. We must hope so and try to make it so. Never was the need so great.

Physical scientists have now found means which, if they are developed, can wipe life off the surface of this planet.

These words that I speak are words that can be taken literally.

The destructive power inherent in matter must be controlled by the idealism of the spirit and the wisdom of the mind. They alone stand between us and a lifeless planet.

There are plenty of problems in this world, many of them interconnected. But there is no problem which compares with this central, universal problem of saving the human race from extinction.

The nations are groping for the spirit and the institutions which will enable man to dominate matter. It has unhappily so far been impossible to provide either the spirit or the institutions on a universa basis. Therefore, some of the nations have developed their own community measures to deter aggression and to give protection to moral values that they cherish.

These countermeasures have, by common consent, involved the sharing of facilities and sometimes the placing of the military forces from one country in another country.

Soviet leaders have complained of these arrangements. But they should know, and probably they do know, that community arrangements are the least likely to be aggressive. Military force which is within a single nation can be used offensively at the dictation of one government alone, sometimes of one man alone. Military force which is distributed through several countries cannot be used effectively unless all of the countries concerned are in agreement. Such agreement would be totally unattainable except for operations responsive to the clear menace of aggression.

A community defense system has two great merits. It makes it possible for the small and the weak to get real security. Also it assures that even the great and the strong cannot, practically, pervert the system by using it for aggression. That way is the enlightened way. By that way the goals of our charter are advanced by means which none has cause to fear.

It may be asked, why do we fear? I could speak of that at length But in order to avoid what seems provocative, I confine myself to a single summarizing fact: Since 1939 some 600,000,000 people of some 15 nations have been brought into the Soviet camp of dictatorships and in no case has this come about by voluntary action of the peoples and nations concerned.

History records no more frightening fact.

In his address of August 8, 1953, the new Soviet Premier twice speaks of peaceful coexistence of the Communist system with that of the non-Communist world.[1] Such expressions are welcome. But as against the background that I mention, mere words do not instantly iet doctrine prescribes the use of such words as guile.

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[1] *Izvestia*, Aug. 9, 1953; for an English language translation, see *The Curren Digest of the Soviet Press*, vol. V, No. 30, Sept. 5, 1953, pp. 3-12.

f the Soviet leaders are honest, they must recognize that, if there o be a new world climate, they must contribute to it more than they e yet contributed.

he United States is quite prepared to explore ways to end the sent tension. President Eisenhower has already made that clear.[1] shall, I hope, never grow weary or discouraged in our quest for ce. But what the United States does cannot achieve the desired l unless there is an equivalent response.

ccasions are now imminent which permit, indeed require, the et leaders to show more authentically their present intentions.

he Korean armistice[2] evokes a heartfelt welcome. The United tes is glad that it was able to contribute to it as it did. But the istice of itself is inconclusive as a test of the Communist will to ce because there was by then an effective military barrier to aggres- . The Korean political conference, if the Communists come to it, afford a better test.[3]

orea has for many generations been the victim of big-power tics. Russia, Japan, and China have successively sought to use ea to advance their aggressive purposes. It has been a long time e the Koreans have truly been the masters of their own destiny. v we seek an opportunity to determine whether any one of the t powers wants to use Korea again for its own purposes or whether all will renounce such ambitions so that there can be at last a ted Korea for free Koreans.

he United States itself seeks no pretext for using Korea as a place building up a military outpost on the Asian mainland. We are r to bring our troops home.

he Republic of Korea has no ambitions which run beyond Korea.

apan has loyally undertaken to refrain from the threat or use of e against the territorial integrity or political independence of any r country.[4]

f Soviet Russia and Communist China are willing to renounce itions which would be served by control of North Korea, then it ld be possible to unite Korea under conditions which will enable Koreans freely to manage their own affairs.

o far, it seems to us, the Communist side is pursuing dilatory ics. The United States, pursuant to this Assembly's resolution of gust 28, 1953,[5] after consultation among the 17 nations nominated represent the United Nations side, proposed a specific time and ific places for the meeting. This proposal was received by the nese Communists on September 5. A response was made on Sep- er 15.[6] The response, however, was merely a reference to the posal which the Chinese Communists made to this Assembly ask-

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See *supra*, pp. 65–71.

nfra, pp. 724–750.

See *infra*, pp. 2673–2678.

See article 5 of the Japanese peace treaty, *infra*, pp. 425–440.

nfra, pp. 2676–2678.

U.N. doc. A/2469. The communication was dated Sept. 13, 1953.

month with reference to the composition of the confe

Meanwhile October 28, the last day for the opening as recommended by the armistice agreement, is rap without the possibility of making the necessary preparations.

One is forced to question whether the Communist to comply with the armistice and face up to the probl ing their forces from Korea and creating a united Korea.

Let me turn to Indochina. There the fighting c munist forces are seeking to gain political power by r Their military strength comes from a steady flow of from Communist China and Soviet Russia and f controlled Skoda munition works. The pretext, unt that the Associated States of Indochina were mere c the Communist war was designed to promote "indep than to expand by violence the Soviet camp.

It is no longer possible to support such a prete Government by its declaration of July 3, 1953,[1] has a tention of completing the process of transferring to t of the three Associated States all those remaining needed to perfect their independence to their own sa

The Communist-dominated armies in Indochina ha a claim to be regarded as the champions of an inde ment. If the Soviet-bloc countries outside of Indo promoting war in Indochina, they cannot now be s conduct is taken as proof that they adhere to the their rule by methods of violence.

Southeast Asia affords the Soviet leaders a chance t to their peaceful words. We anxiously await their v

Germany is another place where the present purp powers face an inescapable testing.

When Germany surrendered over 8 years ago, fou pation were created, one each for Britain, France, th and the Soviet Union.[2] This was deemed a conven Allies to administer the first phases of the surrender never intended that Germany should be permaner Over 4 years ago Britain, France, and the United zones together and enabled the Germans there to ha and build their own political community.[3] The Germ Zone have been denied that unity and that opportun

This division of Germany cannot be perpetuatec risks. For no great people will calmly accept mutila

Since the Foreign Ministers Conference in Moscov efforts have been made to unite Germany and to es free elections an all-German government with which dependably negotiated. The task has proved one of immense diffi ulty. The Russian people, like the French people, have not forgotte what their nation suffered from Hitlerite Germany during the Secon World War. They expect, and they are entitled to, assurance agains a repetition of such events. And that is also the ardent wish of th German people themselves. That is, indeed, the large purpose of th European Defense Community.[1] It will merge German militar strength into the structure of a nonaggressive European community No single member of the community will have national militar strength to serve national ambitions. That is a result which Sovi leaders should welcome if they honestly want peace. So the thre Western Powers have again sought a meeting with the Soviet Unio to accomplish the unification of Germany.[2] So far our proposal have met with no response.

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[1] *Documents on American Foreign Relations, 1953* (New York,

[2] See *A Decade of American Foreign Policy*, pp. 505–522.

[3] See *ibid.*, pp. 585–590.

[4] *Ibid.*, pp. 541–551.

Austria presents another test case. At the Foreign Ministers meeting held in Moscow in 1943, the Governments of the Soviet Union the United Kingdom, and the United States declared their purpose t restore the independence of Austria.[3] That declaration remains to b honored. An Austrian state treaty was virtually completed 6½ year ago. Today there is no substantial item of disagreement. The Sovi Union has now said it prefers not to continue to deal with this matte through deputies of the Foreign Ministers. So the three Wester occupying powers have offered to conclude an Austrian treaty at meeting of Foreign Ministers which has been proposed.[4] So far tha proposal has met with no response.

The entire situation in Eastern and Central Europe is bound to b a cause of deep concern. The peoples there are essentially religiou people, and they are essentially patriotic people. They have a spiritua faith that is enduring and great traditions which will never b forgotten.

It is not in the interest of peace, or the other goals of our charte that the once independent peoples of Europe should feel that they ca no longer live by their traditions and their faith.

It is charged that unrest only exists among them as it is artificiall stimulated from without.

That is true only in the sense that faith is a contagious thing whic penetrates even curtains of iron. The American people, like man others, hold to the belief which our founders expressed in the Declaration of Independence that governments derive their just powers fro the consent of the governed. Also we believe, as Abraham Lincol put it, that there is "something in that Declaration giving liberty not alone to the people of this country, but hope to the world for a future time."[5] No peace can be enduring which repudiates the concept that government should rest on free consent or which denies t that conviction, and no United States Government

But our creed does not call for exporting revolution or inciting others to violence. Let me make that emphatic. We believe that violent change usually destroys what it would gain. We put our hopes in the vast possibilities of peaceful change. Our hope is that the Soviet leaders, before it is too late, will recognize that love of God, love of country, and sense of human dignity always survive. Repressive measures inevitably lead to resentment and bitterness and perhaps something more. That does not come about by artificial stimulation. It comes about because the Creator endowed all human beings with the spark of spiritual life.

We can understand the desire of the Russian people to have friends. The American people in the past have often shown by generous deeds their friendship with the Russian people. We can understand the particular desire of the Russian people to have close neighbors who are friendly. We sympathize also with that desire. The United States does not want to see Russia encircled by hostile peoples.

But we foresee that, unless Soviet policies are changed, those policies will, in their actual operation, create precisely such surrounding animosity and hostility as Soviet policy understandably wants to avoid.

Policies which will permit Korea to be united and free, which will allow independence to come peacefully in Indochina, which will unite Germany and free Austria, which will enable Russia's neighbors to enjoy national independence, which will end the dedication of the Soviet Communist Party to the violent overthrow of independent governments—such are the policies which would go far to end present tensions.

There are, of course, other ways to reduce tensions. I have by no means exhausted all the possibilities. I have, however, spoken of the major causes of present tension, and I have, I hope, made clear the willingness of the United States to discuss them all. So far the invitations in which we have joined with others of you represented here remain unanswered.

Governments which exert themselves without reserve to the creation of ever more powerful means of mass destruction, which tolerate no delay and spare no expense in these matters, and which at the same time are dilatory, evasive, or negative toward curing the situations which could bring these destructive forces into play—such governments cannot but stand morally condemned.

The Soviet Union can make a great contribution toward the relaxing of these tensions which threaten to develop into major disasters. At the same time let me make it clear we recognize that the United States and others have their contributions to make and their obligations to fulfill. That is true both in relation to Russia and in relation to what our charter calls "non-self-governing territories."

I say on behalf of the Government of the United States that we are prepared to show in ourselves the spirit which we invoke in others.

Such a spirit, if it is mutual, should make it possible to tackle hope-forces which could destroy us all.

On April 16, 1953, President Eisenhower expressed eloquently an vividly the terrible danger to humanity from present weapons.[1] Als he pointed out our desire to divert expenditures from destruction t onstruction, which would particularly benefit the underdevelope areas of the world. He recognized that it would be difficult to alte the armament situation markedly while there existed the presen measure of distrust. He called for deeds, such as those which I hav outlined, which would relax the tension. He went on to say that "a progress in all these areas strengthens world trust, we could procee *concurrently* with the next great work—a reduction of the burden o rmaments now weighing upon the world."

I emphasize this word "concurrently." The United Nations her has for some years been dealing with the problem of armaments. W know that even between nations of good will it is difficult to find workable formula to do this. The task cannot, perhaps, be finall solved under the conditions of distrust which exist today. That however, does not mean that the task should be abandoned or eve postponed. We believe, on the contrary, that there should be intensified study of the problem of limitation and control of all categorie of armament. There is a vast amount of technical work which need to be done preparatory to any final solution, and without that preparatory work no final solution would be practical.

We have faith that the time may come—it might come quickly an suddenly—when political leaders would be prepared to put into effe international agreements limiting armaments. When that momen comes the nations should be able to seize it. That moment—we mus not let it escape. Perhaps it could never be recaptured. But t seize that moment when it comes requires that the technical analysi of the problem should before then have been advanced.

The United States has already put forward a series of proposal here which have attracted widespread support.[2] On these we are no nflexible, except that we do insist that any proposals must meet on fundamental test: There must be effective safeguards to insure compliance of all nations and to give adequate warning of possible evasion or violations.

We do not believe that the studies which have been made up unti now have involved a waste of time. On the contrary we believe tha they have laid the foundation for quick action once the general atmosphere makes this possible. But these studies need to be carried on t a still higher state of completion. So far as the United States i concerned, we are prepared to dedicate ourselves with renewed vigo to this high task. Given a concrete demonstration of an equal desir on the part of the Soviet Union to negotiate honestly and sincerely o the substance of these matters, we are confident that this work ca usefully go forward.

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[1] *Supra.*, pp. 65–71.

[2] For a summary, see the Department of State *Bulletin*, Oct. 27, 1952, p. 648 and *infra*, pp. 2750–2796.

suant to article 109.[1] This article provides that, unless a review conference is held earlier, the 10th General Assembly to be held in 1955 shall have on its agenda the question of calling such a conference I have no doubt that a review conference will be held. Article 109 was put into the charter in an effort to allay the very large measure of dissatisfaction which was felt at San Francisco with many of the provisions of the charter. Many nations, particularly the smaller nations strongly objected to what they thought was an excessive award of power to the permanent members of the Security Council. They feared that the Security Council would prove unworkable because of disagreements among the great powers. Unhappily these fears have in large measure materialized. There were other provisions of the charter which were adopted with great reluctance and concern. It was only possible to secure acceptance of the charter at San Francisco by a provision assuring that there would be an opportunity to review it in the light of experience.

It is already apparent, after 8 years, that this opportunity should be grasped.

In 1948 the United States Senate adopted a resolution calling for the elimination of the veto power from all questions involving the pacific settlement of international disputes (chapter VI) and from the admission of new members.[2] It also called for a revision of the charter under article 109, if the United Nations should not otherwise have been strengthened.

This year the United States Senate adopted a resolution appointing a special committee, of which Senator Wiley is chairman, to study proposals for amendment to the charter.[3]

Many private United States organizations have shown their desire for a charter review, and they are preparing for it.

Such a conference will not work miracles, but it can be of major importance. In order, however, to get the best results, the task should promptly engage the best thought and attention of all member nations—not merely their governments but also private organizations The influence of private groups was not adequately felt in 1945 because World War II had not yet ended and normal communications were lacking in much of the world.

We should also welcome suggestions from those nonmember nations which aspire for membership and which are excluded by the veto in the Security Council. Today the number and influence of these nations is so great that their views should not be excluded in considering the future of an organization designed to include all peace-loving nations able and willing to carry out the obligations of the charter.

Surely it is possible to make this Organization more responsive to the needs of our peoples. They only want simple things. They want the onscience. They want the opportunity to think in accordance wit the dictates of their reason. They want the opportunity to exchang views with others and to persuade or be persuaded by what appeals t their reason and their conscience. They want the right to live in thei homes without fear. They want the opportunity to draw together i the intimacy of family life, of community life, and to establish worth and honorable traditions which they can pass on to their children an to their children's children. They want to be able to work productively and creatively in congenial tasks of their own choosing and t enjoy the fruits of their labor. They want governments to which the consent.

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[1] Items 58, 70, and 72. For action by the General Assembly thereon, see its Res. 796 (VIII), adopted Nov. 27, 1953 (General Assembly, *Official Records Eighth Session, Supplement No. 17* (A/2630), p. 51).

[2] *A Decade of American Foreign Policy*, p. 197.

[3] S. Res. 126, 83d Cong., 1st sess., adopted July 28, 1953.

Surely it is not beyond the wit of man to make it possible to satisf such wants and to put to rout the vast impersonal forces which seem imperiously to demand that humanity be bent and broken merely t produce the engines for its own destruction.

To a large extent the simple wants of the people are denied them because of international tensions. These are not always within th direct competence of this Assembly. Some of the problems of which I have spoken are the primary responsibility of other internationa groupings. That, however, does not mean that these problems ar beyond the influence of the members of this Assembly, and that is why I have spoken of them.

This Assembly is the only world forum where the attitudes of th world community make themselves felt. No one can take part in th deliberations of this Assembly without feeling the impact of mora forces. It is an impact which none can disdain.

In these coming days we can, and I think we shall, set up influence which will move the nations nearer the goal for which all the people yearn. That should be the overriding dedication of all the nation represented here. It is, I assure you, the dedication of the delegatio and of the Nation for which I have the honor to speak.

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62. HOUSE CONCURRENT RESOLUTION 157 (84th CONGRESS, 1st SESSION), JUNE 17, 1955[1]

Whereas it is the hope and prayer of the American people that peac will be established among all the nations of the world, thus avoidin the carnage and destruction of war, making possible the lifting o the burden of arms and thereby freeing the energies of mankin to work more effectively to overcome the ravages of hunger, disease illiteracy, and poverty: Therefore be it

Resolved by the House of Representatives (*the Senate concurring*) That the Congress reaffirms the deep desire of the people of th United States for an honorable and lasting peace, and expresse the hope that the people of all the nations of the world join wit the people of the United States in a renewed effort for peace.

reaffirmation and such hope to the representatives of the nations gathered in San Francisco to commemorate the tenth anniversary of the founding of the United Nations.

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63. ADDRESS BY THE PRESIDENT AT THE TENTH ANNIVERSARY MEETING, SAN FRANCISCO, JUNE 20, 1955 [1]

This, my second appearance before the United Nations, gives me, as Chief Executive of the United States, the great privilege of joining with you in commemoration of an historic date—significant, momentous, for all mankind.

I am privileged to bring you a special message from the Congress of the United States. Last week the Congress unanimously adopted a resolution requesting me to express to all of you here, on behal of the people of the United States, our deep desire for peace and ou hope that all nations will join with us in a renewed effort for peace.[2]

Later this week my close friend and associate, Secretary John Foster Dulles, speaking with my full confidence and concurrence, will address you on appropriate elements in the foreign policy of the United States.[3] Because of this circumstance, it seems fitting that I, today, speak principally in terms of my country's unswerving loyalty to the United Nations and of the reasons for our tireless support of it.

A decade ago, in this city, the charter of the United Nations was signed by its 50 founding members. Into a world shattered and still at war, but hopeful and eager for a new dawn, was born an international organization fashioned to be the supreme instrument of world peace.

For this Nation, I pay respectful tribute to you whose faith an patience and courage and wisdom have brought it through 10 tumultuous, frequently discouraging, sometimes terrifying—but ofte rewarding—years. That there have been failures in attempts t solve international difficulties by the principles of the charter, non can deny. That there have been victories, only the willfully blin can fail to see. But clear it is that without the United Nations the failures would still have been written as failures into history. And certainly, without this organization the victories could not have bee achieved; instead, they might well have been recorded as huma disasters. These the world has been spared.

So, with the birthday congratulations I bring, I reaffirm to you the support of the Government of the United States in the purposes an aims of the United Nations and in the hopes that inspired its founders

Today—together—we face a second decade. We face it with the accumulated experience of the first 10 years, as well as with the awfu enduring peace still eludes our persistent search.

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[1] Department of State *Bulletin*, July 4, 1955, pp. 3–6.

[2] *Supra.*

[3] *Infra.*

But the summer of 1955, like that one of 1945, is another season of high hope for the world. There again stirs in the hearts of men a renewed devotion to the work for the elimination of war. Each o us here is witness that never in 10 years has the will of many nations seemed so resolved to wage an honest and sustained campaign for a just and lasting peace. True, none of us can produce incontestable evidence to support this feeling. Nevertheless, all of us, I think, wil testify that the heartfelt longings of countless millions for abundance and justice and peace seem to be commanding everywhere a response from their governments. These longings have strengthened the weak encouraged the doubtful, heartened the tired, confirmed the believing Almost it seems that men, with souls restored, are, with faith and courage, resuming the march toward the greatest human goal.

Within a month there will be a four-power conference of Heads o Government.[1] Whether or not we shall then reach the initial decisions that will start dismantling the terrible apparatus of fear and mistrust and weapons erected since the end of World War II, I do not know. The basis for success is simply put: it is that every individual at that meeting be loyal to the spirit of the United Nations and dedicated to the principles of its charter.

I can solemnly pledge to you here—and to all the men and women of the world who may hear or read my words—that those who represent the United States will strive to be thus loyal, thus dedicated For us of the United States, there is no alternative, because our devotion to the United Nations Charter is the outgrowth of a faith deeply rooted in our cultural, political, spiritual traditions.

Woven into the charter is the belief of its authors:

—that man—a physical, intellectual, and spiritual being—has individual rights, divinely bestowed, limited only by the obligation to avoid infringement upon the equal rights of others;

—that justice, decency, and liberty in an orderly society are concepts which have raised men above the beasts of the field: to deny any person the opportunity to live under their shelter is a crime against all humanity.

Our Republic was born, grew, stands firm today in a similar belief

The charter assumes that every people has the inherent right to the kind of government under which it chooses to live and the right to select in full freedom the individuals who conduct that government

Hence the charter declares:

—that on every nation in possession of foreign territories, there rests the responsibility to assist the peoples of those areas in the progressive development of free political institutions so that ultimately they can validly choose for themselves their permanent political status to practice these same principles.

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[1] See *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955); also, *supra*, pp. 111–114, and *infra*, pp 1886–1897, 2005–2016, and 2841–2843.

The charter recognizes that only those who enjoy free historical and current facts and information, and through education learn to comprehend their meanings, can successfu tain and operate a system of self-government.

Our Republic, likewise, maintains that access to knowl education is the right of all its citizens—and of all mankin

Written under the shadow of war, the charter is strong i viction that no nation has a right to employ force aggressive any other. To do so—or to threaten to do so—is to defy ev law that has guided man in his long journey from darkne the light. Those who wrote it clearly realized that globa come to pose for civilization a threat of shattering destruct sodden existence by the survivors in a dark and broken wo

Likewise, they recognized that the first responsibility of ev is to provide for its own defense; and, in pursuance of this bility, it has the clear right to associate itself with other li peoples for the promotion of their common security.

But they who wrote the charter emphasized that in the of such associations, within the framework of the United is incumbent upon the contracting parties to inform the solemn assurance, always supported by deeds, that the sol is defense, devoid of aggressive aims.

We as a nation believe these truths that are expressed in th We strive to live by them. So:

We shall always maintain a government at home that and constantly seeks to sustain for the individual those rich intellectual, and spiritual opportunities to which his hum entitle him.

In our relations with all other nations, our attitude will recognition of their sovereign and equal status. We shall common problems in a spirit of partnership.

Insofar as our technical, material, and intellectual capacit and wherever our aid—including the peaceful use of atomic may be needed and desired, we shall continue to help othe constantly rising economic levels. Thereby, we trust that have increased opportunity to attain their own cultural an aspirations.

We shall work with all others—especially through this great tion, the United Nations—so that peaceful and reasonable ne may replace the clash of the battlefield. In this way we ca make unnecessary the vast armaments that—even when m only for security—still terrify the world with their de potentiality and tax unbearably the creative energies of m

As some success in disarmament is achieved, we hope th the so-called great powers will contribute to the United N promoting the technical and economic progress of the less p areas, a portion of the resultant savings in military expendi

An abiding faith inspired the men and women who de that faith. We hold fast to the hope that all nations in their intercourse with others will observe those amenities of deportment, customs, and treatment of other nationals as are sanctioned by tradition, by logic, and by friendly purposes.

We and a majority of all nations, I believe, are united in another hope: that every government will abstain from itself attempting, or aiding others to attempt, the coercion, infiltration, or destruction of other governments in order to gain any political or material advantage or because of differences in philosophies, religions, or ideologies.

We, with the rest of the world, know that a nation's vision of peace cannot be attained through any race in armaments. The munitions of peace are justice, honesty, mutual understanding, and respect for others.

So believing and so motivated, the United States will leave no stone unturned to work for peace. We shall reject no method, however novel, that holds out any hope, however faint, for a just and lasting peace.

May I recall to you the words of a great citizen of this country, Abraham Lincoln, which, though uttered in a different context, apply o the problem which the world now seeks to solve. He said:

> The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew and act anew. We must disenthrall ourselves, and then we shall save our country.[1]

In such a body as this, it seems fitting that we should add to Lincoln's words: "Each for himself, our country and humanity."

The object of our second decade is still peace, but a peace of such new kind that all the world will think anew and act anew. It cannot be a mere stilling of the guns—it must be a glorious way of life. In that life the atom, dedicated once as man's slayer, will become his most productive servant. It will be a peace to inspire confidence and faith so that all peoples will be released from the fear of war Scientists will be liberated to work always *for* men, never *against* them. Who can doubt that in the next 10 years world science can so beat down the ravages of disease and the pangs of poverty that humankind will experience a new expansion of living standards and of cultural and spiritual horizons. In this new kind of peace the artist, teacher, and philosopher, workman, farmer, producer, and scientist will truly work together for the common welfare.

These hopes are not new. They are as old as history. But now as we meet on this Tenth Anniversary in the city where was born the United Nations, we must realize that at last they are steadily and surely attainable. This is new. Our part is to rededicate ourselves to the ideals of the United Nations Charter. May we here and now renew our determination to fulfill man's ancient dream, the dream which so inspired the founders of this organization!

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[1] Message to Congress, Dec. 1, 1862; James D. Richardson, *A Compilation o the Messages and Papers of the Presidents, 1789–1897*, vol. VI (Washington, 1897)

behold the United Nations and stand up to call it blessed.

64. ADDRESS BY THE SECRETARY OF STATE AT THE TENTH ANNIVERSARY MEETING, JUNE 24, 1955[1]

Anniversaries can be both pleasant and useful occasions. This meeting is of that kind. We look backward and see much that was good. We look forward and see much of promise.

The United Nations has already shown that it is here to stay. One proof is the presence here of 37 Foreign Ministers who have come from all parts of the earth. Another proof is the fact that, since its founding, no member nation has sought to withdraw; and there is a long—too long—waiting list of qualified nations which want to become members.

This esteem for the United Nations is based on solid accomplishments.

In the political field there have been moments of triumph, as when the United Nations enabled Iran to bring about withdrawal of foreign troops from its soil.[2] And when it helped Greece to overcome the threat of Communist subversion.[3] And, above all, when it saved the Republic of Korea by organizing collective defense.[4]

In the field of non-self-governing territories, the United Nations, working through the Trusteeship Council and otherwise, improves the lot of many dependent peoples and brings them nearer the goal of self-government or independence.

Through its Declaration of Human Rights,[5] the United Nations holds aloft a standard which will lead increasingly to respect for the individual human being and his sacred God-given rights.

Through the Economic and Social Council, much is being done to improve the economic and social conditions of the less developed areas of the world.

We live in the Atomic Age. And members of the United Nations, responding to President Eisenhower's stirring proposal,[6] are joining together to create an international agency which will harness for human welfare what was only a weapon of war.

Above and beyond concrete actions is the all-pervading moral influence which the United Nations exerts. In fulfillment of the words of Arthur H. Vandenberg—a name never to be forgotten here—our General Assembly has become a "town meeting of the world,"[7] xercising a guiding and enlightening influence on the conduct of al nations.

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[1] Department of State *Bulletin*, July 4, 1955, pp. 6–10.

[2] See *The United States and the United Nations: Report of the President to the Congress for the Year 1946* (Department of State publication 2735), pp. 33–34.

[3] See *A Decade of American Foreign Policy*, pp. 753–782.

[4] See *infra*, Part XV.

[5] *A Decade of American Foreign Policy*, pp 1156–1159.

[6] Address of Dec. 8, 1953; *infra*, pp. 2798–2805.

[7] Statement of Mar. 29, 1945; Arthur H. Vandenberg, Jr., ed., *The Private Papers of Senator Vandenberg* (Boston, 1952), pp. 160–161.

These achievements explain why, throughout the world, the Unitec Nations is held in high respect. As President Eisenhower said in his pening greeting to you, the United States takes pride in its loyal support of the United Nations in all these manifold activities which benefit mankind.[1]

The vision of the founders was indeed a lofty one. They met while war still raged, determined to save mankind from the scourg f future war. But the charter they wrote does not call for peac at any price. The peace of the charter is a peace of justice; it is a peace which will assure to all nations great and small the right to b genuinely independent; it is a peace which will enable all individuals owever humble, to enjoy their God-given right to freedom.

To attain these high goals, the charter calls upon the nations t work together. Fellowship is indeed the essence of the charter. N solitary effort could win for any nation the charter's goals. Collective effort is needed to preserve freedom. Without collectiv strength despotism would have free rein; the rights of nations woul be trampled under foot, and human beings would be made slaves.

The founders of the United Nations endowed the charter with th flexibility needed to keep alive this concept of collective effort tha these unpredictable times demand. A secure peace still eludes us But that spirit of collective effort implicit in the charter, if practice in good faith and with creative will, can guide us toward the ultimat goal of man—peace with freedom.

We all know that certain of the activities of the United Nation ave been gravely hampered by the use—abuse—of veto power i the Security Council. This has prevented the Security Council fron discharging many of its intended functions. Also, the Security Counci has never brought into being the security force which it was suppose to command. The reason is that the members have not sufficientl trusted each other to make it practicable for them to unite thei forces.

Happily, the framers of the charter realized the limitations unde which the Security Council might operate. They did not require th members to risk their future on a rigid, all-or-nothing proposition They provided alternatives. Article 51 permits like-minded nation with common problems of defense to join together under the charte for their collective protection against aggression. This has bee widely availed of by nations which trusted each other and which fel bound together by a sense of common destiny.

The first so to act were the 21 American Republics. They ha been closely associated for a century and half. They knew each other, and they trusted each other. So in 1947 they made their Ri Pact.[2] It recognized that an armed attack against any America state was an attack against them all.

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[1] *Supra*

Now there are the London and Paris Accords of 1954,[4] which bring about the beginning of Western European Union, a union long dreamed of by men of vision and good will but which, until now, has eluded human grasp.

Every one of these collective security arrangements embodies the basic principle of the United Nations Charter, a principle which in turn derives from the teachings of all the great religions, that people have the right and the duty to help each other.

Every one of these arrangements also gives added security even to the nonparticipants. There is less armament, because multiplication of armament is avoided when the force that protects one is equally at the service of many. Also, the military power and facilities of a coalition tend to become distributed and not within the control of any single nation.

In international affairs, as in domestic affairs, the sharing of power is the best safeguard against abuse. Power which is shared among a group of independent, sovereign nations cannot be used effectively unless the participating countries are in accord. Such accord would be totally unattainable except for collective self-defense.

Because collective security responds to the needs and highest aspirations of mankind, it has been invoked by many nations. The United States, which in 1914 and again in 1939 sought safety in neutrality, has now learned by that hard experience that security lies in collective action. We believe that the power which we possess ought to be made available for the protection of others, just as we desire the help of others for our own defense. So the United States is today a party to mutual security treaties[5] which bind us collectively with the defense of no less than 44 countries. We are proud to have these multiple ties of trust and confidence.

These systems conform to the charter of the United Nations. They carry into effect the charter ideal of fellowship. They operate under the principles of the charter, and they are subject to the influence of this organization. They have attacked no nation; they have threatened no nation; and they thwart no nation that does not covet the land and peoples over which collective security stands guard.

Out of the evolutionary process I describe, much good has come. Speakers who preceded me have referred to encouraging international developments, particularly some of recent months. Wars have been ended in Korea[6] and Indochina;[7] the Austrian State Treaty[8] has been signed; relations between the Soviet Union and Yugoslavia have

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[1] *Infra*, pp. 968–971.

[2] *Infra*, pp. 812–815.

[3] *Infra*, pp. 912–916.

[4] *Infra*, pp. 972–989, 1474–1491, 1492–1493.

[5] In addition to the treaties cited *supra* by Secretary Dulles, the United States had concluded security treaties with Australia and New Zealand, China, Japan, Korea, and the Philippines; see *infra*, pp. 878–880, 945–949, 885–886, 897–898, and 873–875.

[6] See the armistice agreement of July 27, 1953; *infra*, pp. 724–750.

[7] See the cease-fire agreements of July 20, 1954; *infra*, pp. 750–785.

the German Federal Republic; and peace talks have begun between the Soviet Union and Japan.

These are indeed significant developments. But in our rejoicing let us not forget *why* they have occurred or the sequence of events that have brought us where we are. If we forget that, we will have lost the key to a future of peace and prosperity.

What has happened is because certain nations backed steadfastly the principles of the United Nations and backed them with a resolve that, if need be, carried with it blood and treasure.

Today there is no longer fighting in Korea. But why? The reason is that 16 members responded to the call of the United Nations and fought the aggressor who had struck from the Communist north and almost immediately overran South Korea. After 3 years of bitter fighting, the aggressors were back at, or behind, their point of beginning. The aggression had failed. Then, and only then, did the aggressor accept an armistice and end the killing. It is indeed strange to hear this triumph of collective security now hailed as proof of the peaceloving character of the aggressor and its supporters. If they had had their way, we would today be commemorating the fifth anniversary of the demise of the United Nations.

Today there is an armistice in Indochina. It was negotiated a year ago at Geneva. But shortly prior to the Geneva meeting, several members of the United Nations made clear that continuance of the fighting would carry a threat to all of Southeast Asia and require consideration of collective defense within the framework of the United Nations Charter.[1]

Today there is an Austrian treaty. It is a treaty which could, and should, have been signed years ago. For nearly a decade Austria was deprived of its freedom and its economy was exploited by one of the occupying powers. During this period of travail Austria's courage was sustained by the moral and material succor of friendly powers and by the backing of its hopes by the United Nations. In the long run, that combination prevailed to win a victory for justice.

Today Yugoslavia is no longer the target of abuse. An orchestrated threat began in 1948, when Yugoslavia asserted its national independence and broke away from an alien yoke. During the next 7 years Yugoslavia was helped militarily and economically by nations which differed from its Government in almost every respect except for one, namely, the right of Yugoslavia to be a truly independent, sovereign nation.

Today the Soviet Union seeks diplomatic and economic relations with the German Federal Republic. That development comes after many years of hostility, during which the Federal Republic was given security and economic support by those who believe in the right of the Germans to have an independent existence under a government of heir own choosing.

Today there is a possibility of peace between the Soviet Union and Japan. Four years ago, in this same room, 49 nations signed the this very platform, that peace was bitterly assailed and rejected by some. But now, as a result of the treaty of San Francisco, Japan has resumed a place of honor and dignity in the community of nations, so that some nations now seek peaceful relations which 4 years ago they spurned.

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[1] [illegible]

Throughout all of these events, there runs a common theme, the theme of fellowship. Those who believed in the principles of our charter have helped each other, and in so doing they have helped themselves.

Some say that what has happened marks the beginning of an era. I believe that that can be. Certainly the United States, I pledge you, will do all that lies within its power to make it so. But we do not forget, we dare not forget, that some of those who now hail the recent developments are precisely those who sought for years to stop them.

It is not unprecedented to see men make a virtue of necessity. Today the necessity for virtue has been created by a stalwart thwarting of efforts to subvert our charter. If we want to see that virtue continue, I suggest that it may be prudent to continue what has produced it.

Steadfastness to principle and sacrifice for principle are the proven price of the good that we have won. It would be reckless to expect further good at any lesser price. To achieve peace with justice, peace with sovereignty for nations great and small, peace with respect for human beings without regard to class, will require sustaining the effort, the sacrifice, the solidarity which has brought us where we are today. Much has been accomplished, but more, much more, remains.

There exists the problem of German unification. For 10 years part of Germany has been severed from the rest. That unnatural division of a great people constitutes a grave injustice. It is an evil which cannot be indefinitely prolonged without breeding more evil to plague the world.

In Eastern Europe are nations, many with a long and proud record of national existence, which are in servitude. They were liberated from one despotism only to be subjected to another, in violation of solemn international undertakings.

In Asia there is a Chinese Communist regime which became an aggressor in Korea, for which it stands condemned by the United Nations.[2] It promoted aggression in Indochina[3] and has used force and the threat of force to support its ambitions in the Taiwan area.[4] Recent developments, including the influence of the Bandung conference,[5] suggest that the immediate threat of war may have receded.

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[1] *Infra*, pp. 425–440.

[2] See *infra*, pp. 2608–2609.

[3] See *infra*, pp. 2370–2371.

[4] See *infra*, pp. 2481–2510.

[5] The Afro-Asian conference held at Bandung, Indonesia, Apr. 18–24, 1955; for the Final Communiqué of the conference, see *infra*, pp. 2344–2352.

that cannot be regarded with equanimity.

Also, we cannot forget the existence of that apparatus known a international communism. It constitutes a worldwide conspiracy t bring into power a form of government which never in any country at any time, was freely chosen by the people and which destroys th reality of independence. At Caracas last year the Organization o American States found that the activities of international communis constituted alien intervention in the internal affairs of nations an were a threat to international peace and security.[1] This threa hould end.

Finally, there is the urgent problem of limiting the crushing burde f armaments. For many years the United States and its friend have sought to find ways to carry out the mandate of the charter t educe the diversion for armaments of the world's human and economi resources. Nearly a decade ago the United States made a proposa to internationalize atomic energy.[2] This, if accepted, would hav prevented the present competitive production of these weapons o awesome destructive power.

This unprecedented proposal was made at a time when the Unite States was sole possessor of this weapon. It was rejected.

This proposal was subsequently followed up by new proposals fo the control and regulation of armaments and the establishment of a international organ to supervise an honest disarmament program These proposals too were spurned. But the Soviet Union recently indicated that it might be prepared seriously to consider the initiativ which had been taken months before by other members of the Unite Nations Disarmament Subcommittee.[3] Let us hope that these indications can be translated into concrete action making possible limitations of armament which are in fact dependable and not a fraud.

These are some of the problems that confront us as we face th future. They are problems which cannot be met if we shut our eye to them, or if we are weak, confused, or divided. They are problem hat can be met if we are faithful to the principles of our charter, i e work collectively to achieve their application, and if we are prepared to labor and sacrifice for the future as we have in the past.

The United States asks no nation to do what it is not prepared t do itself. Any nation that bases its actions and attitudes in international affairs on the principles of the charter will receive the wholehearted cooperation of the United States.

Admittedly the problems we face are not easy to solve, and the ill not be quickly solved. There is room for many honest difference f opinion. But the existence of hard, unsolved problems need no itself be a source of danger and hostility if the nations will bring t the common task the spirit of our charter.

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[1] Res. XCIII of Mar. 28, 1954; *infra*, pp. 1300–1302.

[2] See Bernard Baruch's statement of June 14, 1946; *A Decade of America Foreign Policy*, pp. 1079–1087.

[3] See the proposals submitted May 10, 1955, by the Soviet representative o the Subcommittee of the U.N. Disarmament Commission; the Department o State *Bulletin*, May 30, 1955, pp. 900–905.

is called the "cold war"—observe the charter of the United Nations, refrain from the use of force or the threat of force in international relations and from the support and direction of subversion against the institutions of other countries.

To bring the cold war to an end, seven points are not needed;[1] this one is sufficient.

It is in that spirit that we go to Geneva, and we hope to find that spirit shared. If so, we can find there new procedures, or at least develop a new impetus, which will help to solve some of these vast and stubborn problems that still confront us.

We shall not, at Geneva, assume to act as a world directorate with the right to determine the destinies of others. Good solutions do not come from such a mood. We shall seek to find procedures such that all nations directly concerned can fully assert whatever rights and views they have.

In other words, we shall try to carry into the Geneva conference the spirit which has been generated by this commemorative gathering of 60 nations. The sentiments which have been here expressed can inspire new strength, new determination, and a new spirit of fidelity to the principles of the United Nations founders.

In conclusion, I can do no better than to cite the pledge made here last Monday by the President of the United States:

"We, with the rest of the world, know that a nation's vision of peace cannot be attained through any race in armaments. The munitions of peace are justice, honesty, mutual understanding, and respect for others.

"So believing and so motivated, the United States will leave no stone unturned to work for peace. We shall reject no method, however novel, that holds out any hope, however faint, for a just and lasting peace."[2]

Entering the Second Decade

65. ADDRESS BY THE SECRETARY OF STATE BEFORE THE GENERAL ASSEMBLY, SEPTEMBER 22, 1955[3]

It is always a pleasure for me to return to this great Assembly—this center for harmonizing the actions of nations. My pleasure today is especial. Not only will this session round out a decade of United Nations effort, but there are welcome signs that the second decade may in fact be more harmonious than was the first. Surely it is in our power to make it so.

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[1] For the "seven points," see Vyacheslav M. Molotov's address of June 22, 1955; New York *Times*, June 23, 1955.

[2] Address of June 20, 1955; *supra*.

[3] Department of State *Bulletin*, Oct. 3, 1955, pp. 523–529.

more and more sensitive to the moral verdicts of this organization This Assembly is a hall of understanding, and thus of hope. It is lso a hall of judgment. Here the nations of the world expound explain, and defend their international policies. In the process national purposes are disclosed and oftentimes altered to meet the opinions that are reflected here. Sometimes true purposes are sought to be concealed. But this Assembly has a way of getting at the truth

The perceptions and the moral judgments of the nations meeting here endow this Assembly with genuine power. No nation lightly risks the Assembly's moral condemnation, with all that such condemnation implies.

This fact—that our organization's power derives largely from moral judgments formed here—illuminates the problem of membership. It shows how essential it is that there should be here all of those eligible nations which, by their policies and conduct, have demonstrated their devotion to the purposes and principles of the charter.

Today we have a wide and important membership. But about a score of sovereign nations are not represented here. Most of them meet the membership tests of our charter. They are peace-loving, and they have shown themselves able and willing to carry out the charter's obligations. Their governments could reflect here important segments of world opinion.

To block the admission of such nations by use of the veto power is not only a grave wrong to them; it is also a wrong to this organization and to all of its members.

I hope that, during this Tenth Session, action will be taken by the Security Council and by this Assembly to bring these nations into our membership. Thus, the United Nations would enter its second decade better equipped to serve mankind.

This Tenth Session of ours must deal with the question of a charter review conference. That is mandatory under the charter.

The United States believes that such a conference should be held One impelling reason would be to reconsider the present veto power in relation to the admission of new members, particularly if that veto power continues to be abused.

Also, epochal developments in the atomic and disarmament fields may make it desirable to give this organization a greater authority in these matters. They are vital to survival itself. When the charter was drafted, none knew of the awesome possibilities of atomic warfare Our charter is a pre-atomic-age charter.

Our founders believed that, after 10 years, the charter should be reviewed in the light of that first decade of experience. I believe that hey were right. That does not necessarily mean that drastic changes should be made. On the whole, the charter has proved to be a flexible and workable instrument. But few would contend that it is a perfect instrument, not susceptible to improvement.

The United States believes that this session should approve, in principle, the convening of a charter review conference and establish a preparatory commission to prepare and submit recommendations

Review Conference.

Let me turn now to some of the events which have occurred since last December, when the Ninth Session adjourned. On balance, these developments have contributed notably to the advancement of our charter goals of international peace and security in conformity with the principles of justice and international law. I shall allude only to those events where United States policy has played a part, usually in partnership with others.

Turning first to Europe, we see that the Federal Republic of Germany has become a free and sovereign state by treaties concluded with it by France, Great Britain, and the United States.[1] Concurrently, the Federal Republic joined the Brussels and North Atlantic Treaties.[2] Also, the Brussels Treaty was itself made over so that, in combination with the North Atlantic Treaty Organization, there was developed an effective system of limitation, control, and integration of armed forces, the like of which the world has never seen before.[3]

This system insures against the use of national force in the Western European area for aggressive and nationalistic purposes. The arrangements provide security, not only for the participants but also for the nonparticipants. They end the conditions which have made Western Europe a source of recurrent wars, the last two of which have developed into world wars, endangering all.

Never before have collective security and individual self-restraint been so resourcefully and so widely combined. The result can be hailed as a triumph by all who believe in the dual principle of our charter, that security is a collective task and that "armed force shall not be used, save in the common interest."

As a sequence to these developments regarding Germany, Austria became free. The Austrian State Treaty, which had been pending for 8 years, was signed last May and now is in effect.[4] Thus are finally fulfilled pledges given by the Moscow Declaration of November 1943[5] and hopes which this General Assembly expressed at its Seventh Session.[6]

It should be noted that the Austrian State Treaty, bearing the Soviet Union's signature, contemplates support for Austria's admission to the United Nations.

Quickly following these German and Austrian developments came new efforts by France, Great Britain, the Soviet Union, and the United States to reduce the danger of war and to solve outstanding issues by negotiation.

Last May the three Western Powers proposed a two-stage effort.

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[1] Agreements of Oct 23, 1954; *infra*, pp. 483–612.

[2] See Declaration of Oct. 23, 1954, by the Brussels Treaty Powers (*infra*, p. 972) and the Protocol of Oct. 23, 1954, to the North Atlantic Treaty (*infra*, pp. 871–873).

[3] See the Protocols of Oct. 23, 1954, to the Brussels Treaty; *infra*, pp. 972–989

[4] *Infra*, pp. 643–675.

[5] *A Decade of American Foreign Policy*, p. 11.

[6] See General Assembly Res. 613 (VII), adopted Dec. 20, 1952; *infra*, pp. 1834–1835.

selves to provide "a new impetus" for a second stage, which would be that of detailed examination of the substance of the problems

The first phase of the program occurred at Geneva last July when the four Heads of Government met.[1] They clearly manifested their common desire for peace and better relations. Specifically they agreed that further efforts should be made in three fields, namely:

(1) European security and Germany; (2) disarmament; and (3) development of contacts between East and West.[2]

Now, we enter on the agreed second stage, where the "spirit of Geneva" will be tested. A United Nations subcommittee is already discussing the Geneva ideas about disarmament.[3] Next month, the Foreign Ministers of France, the United Kingdom, the Soviet Union and the United States will meet at Geneva.[4] The Western Powers will associate with them, where appropriate, the Federal Republic of Germany and their other NATO partners.

At the coming meeting, agreed priority will be given to the closely linked problem of the reunification of Germany and the problem of European security. This is as it should be.

The German people have now been forcibly divided for over 10 years. The perpetuation of this division is a crime against nature

Three-quarters of the Germans are in the Federal Republic, and they are fortunate in having a great leader, Chancellor Adenauer He stands for a united Germany that will be peaceful and that will find its mission in friendly cooperation with its neighbors. He is determined that Germany's legitimate needs for security and sovereign equality shall be met without a revival of German militarism.

It would, however, be a tragic mistake to assume that, because most of the Germans now have chosen that enlightened viewpoint, the injustice of dividing Germany can therefore be perpetuated without grave risk.

There are many nations who feel that their own future security and world peace urgently require that Germany should be reunited and enabled, if it so desires, to become a party to the Western European arrangements for limitation, control, and integration of armed forces, so that they can never serve an aggressive purpose. There are others who profess to feel that a united Germany within NATO would endanger them even under these conditions.

To bridge this difference, the Western Powers are ready to advance some overall plan of European security which would give the Soviet Union substantial additional reassurances. The conjunction of this attitude of the Western Powers with the like mood of the Federal Republic of Germany provides an unprecedented opportunity. But the German mood which I describe may not always persist. Also, it

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[1] See *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955), and *supra*, pp. 111–114, and *infra*, pp 1887–1897, 2005–2016, and 2841–2843.

[2] See quadripartite directive to the Foreign Ministers, July 23, 1955, *infra* pp. 1896–1897.

[3] See the summary of these discussions contained in the U.S. Memorandum o

States, will always be ready to enlarge their present commitments to meet Soviet concern about European security.

The present opportunity is so unusual and so full of constructive possibilities that it can be hoped that the forthcoming four-power Foreign Ministers Meeting will find a solid basis for the reunification of Germany within a framework of European security.

At Geneva President Eisenhower mentioned two causes of international tension which were not accepted for the agenda of the conference. The first was "the problem of respecting the right of peoples to choose the form of government under which they will live." As to this, he said that "the American people feel strongly that certain peoples of Eastern Europe, many with a long and proud record of national existence, have not yet been given the benefit of this pledge of our United Nations wartime declaration, reinforced by other wartime agreements." [1]

President Eisenhower also raised the problem of international communism. He said that for 38 years this problem has disturbed relations between other nations and the Soviet Union. It is, indeed, difficult to develop really cordial relations between governments when one is seeking by subversion to destroy the other. The head of the Soviet Government took the position that these problems were not a proper subject of discussion at the Geneva conference. Nevertheless, the eyes of much of the world will remain focused upon these two problems. What, in fact, the Soviet Union does about them will, to many, be a barometer of the Soviet's real intentions.

If the "spirit of Geneva" is genuine and not spurious, if it is to be permanent and not fleeting, it will lead to liquidating abnormal extensions of national power, which crush the spirit of national independence, and to the ending of political offensives aimed at subverting free governments.

Turning now from Europe to this hemisphere of the Americas, we find the Organization of American States continuing to demonstrate how the purposes and principles of the United Nations can be effectuated through regional arrangements for collective self-defense. The organization's general meetings have promoted political understanding and economic and social cooperation. On three occasions within the last 15 months, in relation to Guatemala, [2] to Costa Rica, [3] and now in relation to the Ecuador-Peru boundary dispute, the organization has acted promptly and effectively to maintain international order. Its activities in this field have been fully reported to the Security Council, pursuant to our charter.

In the Near East the situation remains troubled. It has been difficult to assure the sanctity of the armistice lines established in 1948 under the auspices of the United Nations to end the fighting between Israelis and Arabs.[4] The United States desires to pay high tribute to

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[1] Statement of July 18, 1955; *infra*, pp. 2009–2012.

[2] See *infra*, pp. 1303–1316.

[3] See *infra*, pp. 1279–1285.

[4] For these armistice agreements, see *infra*, pp. 698–724.

Nations, and particularly to General Burns[1] of Canada and hi
associates.

On August 26 of this year, I addressed myself to certain fundamenta aspects of this situation.[2] I said that if the parties desired a stabl settlement, they could, I thought, be helped from without. I had i mind financial assistance in relation to the problem of Arab refugees nd of irrigation projects which would enable the people throughou the area to enjoy a better life. I also spoke of the importance o bringing greater security to the area. I said that, if nations from without the area made clear their readiness to contribute to these three essential aspects of a settlement, it might then be more possibl to bring order, tranquillity, and well-being to the area itself.

President Eisenhower authorized me to say that he would recommend participation by the United States in these monetary and security commitments, if this were desired by the governments directly concerned and on the assumption that action wherever feasible should be on an international basis, preferably under the auspices of the United Nations.

The United Kingdom immediately associated itself with these United States suggestions. A number of other countries have also indicated their support.

If there is a favorable response from the Near Eastern countries, many aspects of this problem would eventually come to the United Nations for its action at some future session.

During the past year the fabric of peace in the Far East was strengthened by the coming into force of the Southeast Asia Collective Defense Treaty.[3] An organizational meeting of the Treaty Council was held at Bangkok toward the end of February at the ministerial level.[4]

This security arrangement is unique. It marks the first time that any considerable number of countries have banded together, in eastern Asia, for collective self-defense. There are eight parties to the treaty, which, in addition, applies to Cambodia, Laos and Free Viet-Nam. Also, the arrangement draws together western and Asian countries. This would not have been possible had not all the parties firmly committed themselves to the principle of political independence and self-determination. This commitment is found both in the preamble t the treaty and in the concurrent Pacific Charter,[5] which reflects the aspirations of men everywhere to be free.

The Southeast Asia Treaty does not envisage the establishment o a combined military organization comparable to that which has grown up under the North Atlantic Treaty.[6] The conditions in the area d signatories to treat any armed aggression in the treaty area as a common danger to each party, calling for action on its part. That pledge will, we believe, work powerfully to deter aggression.

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[1] Maj. Gen. E. L. M. Burns.

[2] *Infra*, pp. 2176–2180.

[3] *Infra*, pp. 912–916.

[4] See *The Bangkok Conference of the Manila Pact Powers, February 23–25, 195* (Department of State publication 5909; 1955) and the communiqué of Feb. 25 1955; *infra*, pp. 2334–2337.

[5] *Infra*, pp. 916–917.

[6] See *infra*, pp. 1594–1658.

In the China area the situation is somewhat less ominous than it was. We hope that the Chinese People's Republic will respond to the manifest will of the world community that armed force should not be used to achieve national objectives.

The record of this Communist regime has been an evil one. It fought the United Nations in Korea, for which it stands here branded as an aggressor.[1] It took over Tibet by armed force.[2] It became allied with the Communist Viet Minh in their effort to take over Indochina by armed force.[3] Then, following the Indochina armistice,[4] it turned its military attention to the Taiwan (Formosa) area.[5] It intended to take this area by force and began active military assaults on its approaches, which assaults, it claimed, were a first step in its new program of military conquest.

This constituted a major challenge to principles to which the United States is committed by our charter. It was also a direct and special challenge to the United States itself. We have a distinctive relationship to these islands, a relationship which is reinforced by a mutual defense treaty with the Republic of China covering Taiwan and Penghu [the Pescadores].[6]

At this point, on January 24, 1955, President Eisenhower asked the Congress of the United States for authority to use the armed forces of the United States in the defense of Taiwan and Penghu and related areas which the President might judge as appropriate to that defense.[7] After full hearings in the House and the Senate of the United States, the requested authority was granted. In the House the vote was 409 to 3, and in the Senate the vote was 85 to 3. The authority terminates whenever peace and security of the area are reasonably assured by international conditions created by action of the United Nations or otherwise.[8]

I am convinced that this timely warning, given with solid, virtually unanimous, national concurrence, served to prevent what could have been a dangerous miscalculation on the part of the Chinese Communists.

Thereafter the Bandung conference was held.[9] There again the peace-loving nations—many of them members of the United Nations—

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[1] See *infra*, pp. 2608–2609.

[2] See United Nations *Bulletin*, Dec. 15, 1950, pp. 675–676.

[3] See *infra*, pp. 2363–2372, and *Report of Senator Mike Mansfield on a Study Mission to Vietnam, Cambodia, Laos* (Senate Committee on Foreign Relations print, 83d Cong., 2d sess.), pp. 1–15.

[4] *Infra*, pp. 750–785.

[5] See *infra*, pp. 2481–2510.

[6] *Infra*, pp. 945–949.

[7] *Infra*, pp. 2483–2486.

[8] See the Congressional Joint Resolution of Jan. 29, 1955; *infra*, pp. 2486–2487.

[9] The Afro-Asian conference held at Bandung, Indonesia, Apr. 18–24, 1955; for the final communiqué of the conference, see *infra*, pp. 2344–2352.

principle that states should refrain in their international relations from the threat of force.

From the site of the Bandung conference, Mr. Chou En-lai proposed direct discussions with the United States, a proposal which I promptly indicated was acceptable to the United States so long as we dealt only with matters of concern to the two of us, not involving the rights of third parties.[1] That reservation applies particularly, so far as the United States is concerned, to the Republic of China, to which we are loyal as to a long-time friend and ally.

Shortly thereafter the Chinese Communists released 4 and, later the other 11 of the United States fliers of the United Nations Command whom it had been holding in violation of the Korean Armistice Agreement.[2] This release had been sought by resolution of this General Assembly adopted last December.[3] The outcome justified the confidence which the United States had placed in the United Nations and our restraint in the use or threat of our own national power.

Some 15 months ago the United States had started talks with the Chinese People's Republic at Geneva with regard to getting our civilians home.[4] As a result of the Bandung statement made by Mr. Chou En-lai and my reply, these talks were resumed last August, to deal first with the topic of freeing civilians for return and then with other practical matters of direct concern to the two of us.[5]

All Chinese in the United States who desire to return to their homeland are free to do so. They have always been free to do so except for a few who were temporarily prevented by restrictions arising out of the Korean war. The Chinese People's Republic has now declared that all Americans on the China mainland have the right to return and will be enabled expeditiously to exercise that right.[6]

For the favorable trend of events to which I refer, thanks are due to many. Our Secretary-General worked assiduously to bring about the release of United States fliers of the United Nations Command.[7] Other governments and individuals were helpful in this and other matters. The will of the world community may have operated to avert another war, the scope of which could not surely be limited.

Last year I spoke of the peaceful uses of atomic energy.[8] We had gone through a period of disappointing negotiations to secure the participation of the Soviet Union in the program presented to you by President Eisenhower on December 8, 1953.[9] In the face of a negative Soviet attitude, we had resolved nevertheless to go ahead.

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[1] See *infra*, pp. 2496–2503.

[2] The 4 fliers were released May 31, 1955, and the remaining 11, Aug. 1, 1955; see *infra*, pp. 2713–2714.

[3] *Infra*, pp. 2711–2712.

[4] See *infra*, pp. 2512–2513.

[5] See *infra*, pp. 2513–2517.

[6] See *infra*, pp. 2516–2517.

[7] See report by the Secretary-General, Sept. 9, 1955; *infra*, pp. 2713–2714.

[8] See Secretary Dulles' address of Sept. 23, 1954, before the opening meeting of the Ninth General Assembly; *supra*, pp. 92–100.

[9] *Infra*, pp. 2798–2805.

commence immediately. Since that time, we have made good progress in each of these fields.

The negotiations for establishment of an International Atomic Energy Agency have led to the preparation of a draft statute establishing such an agency.[1]

An International Conference on the Peaceful Uses of Atomic Energy was held with outstanding success last month at Geneva.[2] This conference was so successful that the United States will again propose a similar conference to be held in 3 years or earlier if the increasing development of the peaceful uses of atomic energy will so warrant.

The first reactor training course at our Argonne National Laboratory is nearing completion, and an enlarged course is about to begin.

Distinguished doctors and surgeons from other countries are visiting our hospitals and research establishments where atomic energy is used for the cure of cancer and other diseases.

The Soviet Union is now taking a more cooperative attitude, and we gladly note the recent offer of Premier Bulganin to set aside fissionable material for the work of the proposed International Agency when it comes into existence.[3]

Much has happened, we see, to give reality to the vista of hope which President Eisenhower portrayed when he spoke to our Eighth Session.

The United States also plans at this session to propose the establishment of an international technical body on the effects of atomic radiation upon human health. It would be composed of qualified scientists who would collate and give wide distribution to radiological information furnished by states members of the United Nations, or specialized agencies.

The United States is itself giving much study to this matter. We believe that properly safeguarded nuclear testing and the development of peaceful uses of atomic energy do not threaten human health or life. But this is a subject of such transcendent concern that we believe that all available data should be sought out and pooled under United Nations auspices.

On July 21st of this year, at Geneva, the President of the United States took still another major initiative. Dealing with disarmament, and addressing himself for the moment principally to the delegates from the Soviet Union, he proposed that, as a beginning, each of our two nations should provide the other with information as to its military establishments and with facilities for unrestricted aerial reconnaissance of the other.[4]

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[1] See the Department of State *Bulletin*, Oct. 24, 1955, pp. 666–672.

[2] For a summary of the results of this conference, held at Geneva, Aug. 8–20, 1955, see *infra*, pp. 2826–2832; also the U. N. Secretary-General's report, Sept. 14, 1955 U.N. doc. A/2967).

[3] See Marshal Bulganin's statement of July 18, 1955; *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955), p. 37.

[4] See *infra*, pp. 2841–2843.

unlikely unless the aggressor can have the advantage of surprise and can hope to strike a blow which will be devastating because unexpected. But the preparation of an attack of such magnitude could hardly be concealed from aerial inspection. Aerial inspection would not, of course, detect everything. We do not think of it as itself a final comprehensive system of inspection. But aerial inspection would detect enough to exclude the greatest risk. Because it would do that, it would open the way to further steps toward inspection and disarmament which we all, and I emphatically include the United States, want to see taken.

Long experience makes it apparent that, when there is a sense o insecurity, when there is an ominous unknown, then arms seem needed and limitation of armament becomes virtually unattainable. Reductions of armament occur when fear is dissipated, when knowledge replaces exaggerated speculation, and when in consequence arms seem less needed.

It was, I believe, immediately sensed by all that, if the United States were to permit Soviet overflights of its territory and if the Soviet Union were to permit the United States overflights of its territory, that would go far to show that neither had aggressive intentions against the other. Then, as President Eisenhower pointed out in his plea at Geneva, it would be easier to move on to a comprehensive, scientific system o inspection and disarmament. The essence of the President's proposal was that it would, as a beginning, do what is required of a beginning; namely, make it more possible to take subsequent steps.

I hope that the sentiment of this General Assembly will make clea that this beginning should be made as simply as may be and as quickly s may be. From such a beginning can come, and I believe will come solid advance toward our charter goal of reducing the "diversion fo armaments of the world's human and economic resources." Then w can realistically look forward to fulfilling the desire close to the hearts of all our people—a desire voiced by President Eisenhower a our recent meeting in San Francisco[1]—that more of this earth's resources should be used for truly constructive purposes, which would particularly benefit the underdeveloped areas of the world.

It was 10 years ago last month that the fighting stopped in World War II. We have lived through the subsequent decade without another world war. That is something for which to be profoundly thankful. But true peace has not been enjoyed. There have been limited wars; free nations have been subverted and taken over; there has been the piling up of armament, and the rigidities of position which are imposed upon those who regard each other as potential fighting enemies.

That phase may now be ending. I believe that all four of the Heads f Government, who were at Geneva, wanted that result and that each contributed to it. In consequence, a new spirit does indeed prevail with greater flexibility and less brittleness in international relations.

Some find it interesting to speculate as to which nations gained and

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[1] See *supra*, pp. 360–364.

The "summit" meeting, if it is to be historic rather than episodic, must usher in an era of peaceful change.

It will not be an era of placidity and stagnancy, in the sense that the *status quo*, with its manifold injustices, is accepted as permanent. It will be an era of change, and it will have its strains and its stresses. But peoples and governments will renounce the use of war and of subversion to achieve their goals. They will accept orderly evolution toward the realization of legitimate national aspirations. They will develop wider economic intercourse among themselves. They will increasingly respect human rights and fundamental freedoms. And human effort will be dedicated to what is creative and benign.

The United Nations, too, will change. Given good will and mutual confidence, many provisions of the charter will gain new meaning and new vitality.

Let us together strive that the next decade shall be known as the healing decade of true peace.

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66. ADDRESS BY THE ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL ORGANIZATION AFFAIRS,[1] JANUARY 13, 1956[2]

Just a few weeks ago the General Assembly concluded its tenth, and perhaps its most momentous, session.[3] High on the list of accomplishments was its action in enlarging the membership of the United Nations from 60 to 76 countries.[4] This expansion of the organization's membership brings new vitality and new voices to the task of creating and maintaining peace with justice among nations.

The United States must now assess the implications for its foreign policy of a United Nations in which European representation has been increased, the voice of Asia and the Middle East has become strengthened, the number of so-called uncommitted countries has been enlarged, and the proportionate numerical strength of the Latin American group reduced.

This means new problems, but it also means a new challenge to our diplomacy—a new opportunity to develop policies that will advance our own interests and those of the international community.

The President in his state of the Union message[5] stated the cardinal aim of our foreign policy: "the waging of peace, with as much resourcefulness, with as great a sense of dedication and urgency as we have ever mustered in defense of our country in time of war."

In charting our course in a newly revitalized United Nations we must search out and understand the new forces at work.

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[1] Francis O. Wilcox.

[2] Department of State *Bulletin*, Jan. 23, 1956, pp. 111–117.

[3] Held Sept. 20–Dec. 20, 1955.

[4] See *supra*, p. 337.

[5] *Supra*, pp. 129–133.

Tenth General Assembly. The first was the convening of the Bandun conference.[1] The second was the summit meeting in Geneva.[2] Together they loosened the rather rigid cold war alinements which hav thus far prevailed in the United Nations.

The Bandung conference reflected an upsurge of confidence amon the Asian-African countries. Representatives of the conference, i should be noted, rejected Communist colonialism as well as the discarded colonialism of former times.

Within the United Nations the "spirit of Bandung" gave rise t increased expressions of solidarity of interest among members of th group and continued cohesiveness on issues of special mutual concer such as colonial questions, questions of race, the needs and desires o underdeveloped countries, and the question of membership. Thi current of Asian-African self-expression cut sharply across prevailin Communist-free-world alinements and brought the Tenth Genera Assembly face to face with changing political and economic realities

Despite the "spirit of Bandung," however, the General Assembly after voting to include the Algerian item on the agenda,[3] subsequentl decided not to consider the question further,[4] and on the Cyprus ite the Bandung powers were divided.[5]

At the Assembly there was felt not only a new sense of urgency arising from anticolonial pressures and a heightened appreciation of th value of the United Nations as a world forum for discussion of pressin problems, but also a sense of the limitations of U.N. action at certai times in dealing with certain problems. As Ambassador Lodge ha said, "Public debate is curative in many cases, but it cannot cure al problems any more than a certain medicine will cure all diseases."[6]

On the ground of interference in domestic affairs, South Afric withdrew its delegation from the General Assembly. The issue, o course, was over South Africa's racial policies. Here again, th Assembly recognized the United Nations limitations. While reaffirming the hope that South Africa would live up to its charter obligations the Assembly did not again appoint the commission which had bee set up to study race problems in that country and with which Sout Africa had refused to cooperate.[7]

The Asian and African countries, however they may differ in thei foreign policies, share a compelling desire for rapid advancemen along the road of industrial, economic, and social progress. Many of these peoples are newly free of colonial rule. They find the climat of independence no less invigorating now than it was for us in 1776 Nor did the United States, after winning its independence, emerg

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[1] Bandung, Indonesia, Apr. 18–24, 1955; for the final conference communiqué see *infra*, pp. 2344–2352.

[2] See *The Geneva Conference of Heads of Government, July 18–23, 1955* (Department of State publication 6046; 1955) and *supra*, pp. 111–114, and *infra*, pp 1887–1897, 2005–2016, and 2841–2843.

[3] Item 64.

[4] See General Assembly Res. 909 (X), adopted Nov. 25, 1955 *infra*, p. 2302

[5] See the Department of State *Bulletin*, Oct. 3, 1955, p. 546, footnote 10.

[6] Statement of Sept. 21, 1955; *ibid.*, p. 545.

[7] See General Assembly Res. 917 (X), adopted Dec. 6, 1955; *infra*, pp. 2308

today, have recourse to a United Nations. But one may we
some of the issues we would have hotly pursued in such a fo

The summit meeting held in Geneva last July also left it
on the Tenth Assembly. This historic meeting raised the
peoples that the danger of war had further receded. It appe
the U.S.S.R. joined us in realizing that neither side can
global hydrogen war. It seemed possible that some of the ou
political differences could now be dealt with in good faith.

The General Assembly began its work in this warm aft
the Geneva summit meeting. Many delegates invoked the
Geneva" in their speeches. The Soviets came wearing the
conciliation. The Great Powers for the time being at least
glaring at each other across conference tables, fighting out
born of the Second World War.

In the freer atmosphere, pressures of a changing world
with new force. The smaller nations, the less-developed
the former colonial peoples of Asia and Africa spoke up w
vigor. They spoke not only of their particular problems;
dressed themselves to the Great Powers about the kind of w
want to live in.

While the Bandung conference and the Geneva summit
did not confront us with an entirely new situation, we can
there was a shift of emphasis which resulted in blurring t
issues and alinements. At least until the close of the secon
conference in November,[1] Soviet tactics in the Assembly
more flexible than in the past. Prior to that time the So
the gloved rather than the mailed fist.

Our impression from this past Assembly is that Sovi
would like to maintain the appearance of cooperative relati
though they are not willing to create the indispensable cond
a secure peace. The cold war, in the sense of peaceful co
between conflicting ideologies, was in fact conducted with m

We must therefore reckon coldly with the true aims o
flexibility of Soviet tactics in the United Nations. The
divide the non-Communist world and to gain acceptan
champion of all peoples seeking a better life.

The Soviet challenge was met resourcefully and to good e
us consider four of the important issues before the Asse
admission of new members, the peaceful development of
disarmament, and economic assistance for underdevelop
These are issues of major import for the future of the Unite
and for United States policy.

In its first decade the United Nations has grown from a
membership of 51 to a more broadly representative organ

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[1] i. e., the Geneva Foreign Ministers conference which met from
Nov. 16, 1955; see *The Geneva Meeting of Foreign Ministers, October 2
16, 1955* (Department of State publication 6156; 1955) and *supra*, p
and *infra*, pp. 1897–1927, 2018–2039, and 2844–2850.

mankind during its second decade.

There are six points that I wish to stress regarding the United States attitude on the admission of new members. I shall then try to assess the implications for our foreign policy of the increase in size of the United Nations[1].

First, we have followed a consistent policy based squarely on the principles of the charter. In the words of Ambassador Lodge, the United States was guided by three basic principles:

1. To bring into membership all qualified states which apply;
2. To follow the provisions of the charter as to judging the qualifications of the applicants;
3. To avoid thwarting the will of a qualified majority by use in the Security Council of the veto.[2]

The admission of qualified states had been prevented solely by the Soviet veto. These would long ago have been members of the United Nations had not the Soviet Union used the veto 45 times on the membership question in the past 10 years.

Second, consistent with these principles the United States took the initiative early during the Assembly session. We actively sought the agreement of the five permanent members of the Security Council not to use the veto on the admission of new members.

The United States has long favored such an agreement. We stressed this point in varying ways with each of the permanent members. In the present case we ourselves said publicly that we would not use the veto and that we would abstain in the voting on the applications of the Soviet satellites even though in our view their present governments are not independent and their conduct has been reprehensible. This voting position accorded fully with the spirit and intent of the Vandenberg resolution, adopted by the Senate in 1948 by a 64 to 4 vote, which expressed the view that there should be agreement among the permanent members not to use the veto to prevent the admission of new members.[3]

Third, we believed that the admission of qualified applicants would enrich and strengthen the United Nations morally and materially Their participation in the organization would outweigh any disadvantages which might follow from the admission of the four satellites

Fourth, it is evident that the pressure of world opinion does exert influence on the Soviet Union. Its original position was that the United Nations must admit all the Soviet satellites, including Outer Mongolia, or the Soviet Union would veto all qualified candidates We made no comparable insistence. We did not condition the admission of one state upon another under threat of veto. But evidently, among other motives, the Soviets did not wish to bear the onus for having vetoed the long list of free-world applicants.

We should frankly recognize that Soviet willingness to see 16 nations admitted was a come-down from its rigid 18-or-nothing position. But we must nevertheless hold them accountable for frustrating the admis-

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[1] Effected by the admission of 16 new members; see *supra,* p. 337.

[2] Statement of Dec. 7, 1955; *supra,* 335–336.

Court of Justice,[1] the Soviet Union conditioned Japan's admission on that of the fictional entity of Outer Mongolia. It withheld United Nations membership as a new instrument of pressure on the Japanese in their peace treaty negotiations. We deeply regret the continued exclusion of Japan, whose candidacy was backed by every member of the Security Council except the Soviet Union. We also deplore the exclusion of the Republic of Korea and the Republic of Viet-Nam, both of whom we regard as fully qualified.

Fifth, the abstention of the United States in the voting on the satellites does not mean that we accept as permanent the present situation in Eastern Europe. We will continue to hold the four new Eastern European members responsible for past agreements. We will continue to charge the Soviet Union with its undeniable responsibilities in this regard. As Secretary Dulles said recently, the United States "will accept no compromise with the Soviet Union" that would seem to be acquiescence in the present status in Eastern Europe.[2]

Meanwhile, we hope that United Nations membership will have a salutary effect on the international behavior of these governments and will encourage freer contacts between their peoples and the outside world. We trust that they will be brought to feel with new force the need to respect the human rights and basic freedoms which they now deny their people. They have now bound themselves to observe the terms of the charter. The world will note how they carry out this pledge.

Sixth, our abstention on the satellite applications does not mean any change in United States policy on the question of Chinese representation in the United Nations. We continue to support the Government of the Republic of China. We continue to oppose vigorously the seating of the Chinese Communists.

What are the implications of the admission of 16 new members? On the organizational side it is clear that the number of members on the Security Council, the Economic and Social Council, and perhaps on other bodies should be increased.

Let us look, for example, at the Security Council. Asia has never been adequately represented on the Council. With the admission of six additional Asian members, this imbalance must be redressed. The increase of 10 European countries also requires a review of the number of Council seats allocated to the European region. While we have made no decision on this matter, it may be that only two seats need to be added, although perhaps three or four more will be as it evolved in the League of Nations is also worthy of study.

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[1] Advisory opinion of May 28, 1948; International Court of Justice *Reports, 1947–1948*, pp. 57 ff.

[2] Cf. Secretary Dulles' statement of Nov. 18, 1955:
" . . . there are sharp differences between the objectives of the Soviet Government and our own. We believe in justice for all and in the right of nations to be free and the right of individuals to exercise their God-given capacity to think and to believe in accordance with the dictates of their mind and conscience. We shall not cease to pursue these objectives or ever seek a so-called peace which compromises them." *Supra*, p. 120.

Any increase in members of the Security Council would, of course in turn affect the number of votes required for decisions. Moreover this question of the size of the Council involves an amendment o the charter, which requires the concurrence of two-thirds of the members of the United Nations, including the five permanent members o the Security Council. This complex question will obviously requir extensive diplomatic negotiations. The United States hopes to begi such negotiations within the next month or two.

We can also expect that new and important political problem will be brought to the General Assembly for solution as a result o its new membership.

The enlarged United Nations will speak with wider authority It will more accurately mirror underlying conditions as they are in th world and confront all of us in a more decisive manner with the crucia problems of the atomic age. A greater sense of responsibility will b required of all the members if the organization is to develop in a sound and practical way and if problems are to be solved and no aggravated.

There are, of course, those who are already predicting that th United States will lose voting support in the General Assembly. I have this comment regarding such dim predictions:

Up to the present time the United States has been able to retain a position of leadership through the justice of its cause and the logic o its arguments. Almost invariably on important issues our policie have been overwhelmingly supported by the members of the fre world.

If the time should ever come when we found ourselves consistentl outvoted on important issues in the United Nations, that would surel be a sign that we ought to reexamine in a hardheaded way our basi policies.

We face another major challenge in promoting the peaceful uses o atomic energy. President Eisenhower originally announced hi atoms-for-peace plan at the United Nations.[1] He proposed that a agency be established under its aegis. This reflected his estimate o the value of the United Nations as a mechanism for promotin international cooperation. That is why he also proposed that, onc established, the agency should be brought into an appropriate relationship with the United Nations.

The traditional way would have been to continue with our bilatera programs. The need to safeguard our security interests and th difficulty of working out an international mechanism for parcelin out and controlling the use of fissionable materials would have justified a unilateral approach. But President Eisenhower rejected th pattern of the past in recognition of the needs of the present.

He rejected it in the knowledge that the acquisition of nuclea technology and material brings with it the capacity to manufactur nuclear weapons. Atomic power reactors can be utilized to produc

Unless effective preventive measures are taken soon, the wider utilization of atomic energy—which will occur whether or not an international agency is created—will inevitably hasten the day when many nations will be in a position to manufacture atomic weapons.

Think of what this means in terms of existing international tensions, current power relationships, and international plans generally. This is what gives the President's call for international cooperation in this field its great sense of urgency. In the long run it may well be that the greatest contribution of the International Agency will be to assure that atomic energy is used exclusively for peaceful purposes.

At the Tenth Assembly the majority of member nations sought a greater voice in shaping the agency's statute, in conducting its operations, and in establishing an appropriate form of relationship with the United Nations.

In keeping with the President's original conception, the United States met those desires by proposing to convene a conference on the final text of the agency's statute and by agreeing to authorize the Secretary-General to make a study of the agency's relationship with the United Nations.[1] The United States also announced that the original group of states which had been engaged in drafting the statute of the agency would be expanded by the addition of the Soviet Union, Czechoslovakia, India, and Brazil.[2]

The expanded negotiating group will soon meet. It will seek agreement on a draft statute and will consider the suggestions of other governments. One of the main problems in these negotiations will be to seek agreement with respect to the powers and authority of the agency to guard against the diversion of fissionable materials.

The Soviet Union, whose original hostility to the President's proposal was abandoned in the face of strong world public opinion, will probably continue to press for a relationship with the United Nations which would subject the agency's power to guard against the diversion of fissionable materials to a veto in the Security Council. But the General Assembly has twice rejected this concept, and it remains to be seen whether the Soviet Union will once again adjust its policy to world opinion.

Disarmament is a third important challenge. This past Assembly urged that the states concerned should continue to seek agreement on a comprehensive disarmament plan.[3] It also urged that in the meantime priority should be given to the following "initial steps":

> (i) Such confidence-building measures as the plan of Mr. Eisenhower, President of the United States of America, for exchanging military blueprints and mutual aerial inspection, and the plan of Mr. Bulganin, Prime Minister of the Union of Soviet Socialist Republics, for establishing control posts at strategic centres;
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> (ii) All such measures of adequately safeguarded disarmament as are now feasible.

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[1] See General Assembly Res. 912 (X), adopted Dec. 3, 1955; *infra*, pp. 2837–2839

[2] See statement issued by the Department of State, Oct. 21, 1955; Department of State *Bulletin*, Nov. 14, 1955, p. 798.

[3] Res. 914 (X), Dec. 16, 1955; *infra*, pp. 285 –2853.

United Kingdom initiative, the Assembly has revitalized 10 years o fruitless debate. It has adjusted its sights to a new and feasibl disarmament goal.

This fresh approach to the disarmament problem will have it first test early this year when the Subcommittee of the United Nations Disarmament Commission resumes its work. If the Sovie Union will now agree to the early implementation of the President' "open sky" plan,[1] the United Nations will finally have the possibilit of progressing to a more comprehensive plan of disarmament. Regrettably, Mr. Khrushchev's recent attack on the President's plan i far from encouraging.[2]

Meanwhile this Government is making an intensive review of concrete measures which might be taken now to reduce or limit armament and armed forces with adequate safeguards as to inspection and control. Our ultimate goal remains unchanged. We are searchin intensively for new scientific techniques to guarantee effective inspection and control of a more comprehensive plan which would includ nuclear weapons. Success in this search will make possible comprehensive disarmament, including the elimination of nuclear weapons We will persevere in this search with all the skill and resources a our command.

The shifting emphasis of the cold war has made the solution of economi problems even more vital. The current Soviet effort to exploit th economic needs of some of the underdeveloped countries—highlighte by the Khrushchev-Bulganin Asian tour[3]—is a matter for serious concern to all those who are genuinely interested in the freedom as well a the progress of the economically underdeveloped countries.

I am convinced that from a dollars-and-cents point of view economi id through multilateral organizations is less costly to us in man instances since it spreads the burden over a larger number of con ributors. Moreover, the multilateral approach may often be foun more acceptable by some of the underdeveloped countries.

The crux of the matter is that we must remain flexible regardin he manner in which economic aid is made available to our free-worl artners. When the job can best be done bilaterally we should us this approach. This is equally true of the multilateral approach.

In the face of the new challenge it has now become even more im ortant to increase the effectiveness of our economic and technica ssistance programs. Thus it is essential that we continue an strengthen our support of the Expanded Program of Technica Assistance of the United Nations,[4] which is generally recognized as

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[1] *Infra*, pp. 2841–2843.

[2] In his address of Dec. 29, 1955, to the Supreme Soviet, N. S. Khrushche said that without disarmament aerial surveys could "only fan war passions an war psychosis." He charged that the open-skies proposal was "a means to b used for finding out more about the forces of another country" and that information obtained from aerial inspection could be used "for choosing the most convenient moment for sudden attack" (*New Times*, Jan. 5, 1956, Supp., p. 26)

[3] Begun Nov. 18, 1955, with their arrival at New Delhi. The tour include India, Burma, and Afghanistan.

[4] See *supra*, 262–265.

We hope that in the future more of our technical experts will be able to share their experiences with the people of Asia, the Middle East, Africa, and the less developed parts of Latin America.

We believe that the program could be further strengthened by increasing, through fellowships and study tours, the number of those from the underdeveloped countries who are enabled to visit our schools and farms and factories.

Another area which deserves imaginative exploration is the problem of international financing. There is no one answer to that problem. Much is already being done, and perhaps more could be done, through such bodies as the International Bank for Reconstruction and Development, on the multilateral side, and our own Export-Import Bank.

Further headway is likely to be made through the early establishment of the International Finance Corporation, which the General Assembly endorsed unanimously at its last session.[1] It will help to bring together opportunities in underdeveloped countries and potential investors in capital-exporting countries and will, we trust, encourage the flow of private capital. The Congress has already approved this undertaking,[2] and the United States has formally adhered to the new organization.[3]

It is an open question whether all these measures will be adequate to meet those basic needs for capital in the world which cannot be satisfied by the underdeveloped countries from their own domestic resources. While there can be no doubt that domestic savings must in the long run provide the bulk of the necessary funds, President Eisenhower has recognized that additional funds may be necessary. As you know, over the past several years there has been mounting pressure from the underdeveloped areas for a special United Nations fund for economic development. President Eisenhower has made it clear that, as some success in disarmament is achieved, this Government will ask our people to join in devoting a portion of the savings thus achieved to an international fund for economic development within the framework of the United Nations.[4] Such a fund would help in the development of roads and other means of transportation, the multiple use of water, and other basic services which, in turn, will create better conditions for private investment.

The formula for a special United Nations fund for economic development as developed to date may not be adequate, but I hope that ways and means will be found for the United States to participate constructively in such a fund.

Since the General Assembly approved the idea of charter review in principle,[5] we must examine carefully in the months ahead the ways and means by which the United Nations can be improved.

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[1] See General Assembly Res. 922 (X), adopted Nov. 3, 1955; General Assembly *Official Records, Tenth Session, Supplement No. 19* (A/3116), p. 10.

[2] See PL 350, 84th Cong., 1st sess., approved Aug. 11, 1955; 69 Stat. 670.

[3] Dec. 5, 1955.

[4] See the President's address of Apr. 16, 1953; *supra*, pp. 65–71.

[5] See *supra*, pp. 333–334.

function. When the organization was born in 1945, those who drafted the charter did not know about the atomic bomb. Moreover, they assumed that the peace treaties ending the war would soon be concluded and the U.N. would be able to function in a relatively peaceful world. They also assumed that the five Great Powers would work together to win the peace as they had cooperated to win the war.

All these basic assumptions proved erroneous. The signatures o the charter were hardly dry when the atomic bomb was dropped ove Hiroshima and we all realized the world had entered a new an dangerous era. Shortly afterward the Great Powers, instead o working together, fell to quarreling among themselves. The peac treaties were scrapped, and the United Nations, together with it members, became enmeshed in the cold war.

What we have, therefore, is a preatomic charter which is compelle to function in a nuclear age. Some United Nations critics point ou that we are, in fact, sending a Cub Scout to do a man-sized job.

I do not agree, but in any event we ought to examine pretty carefully such fundamental questions as the following:

1. Should the United Nations be given sufficient power to cop dequately with the mortal threat which atomic and hydrogen weapon pose for us all?

2. Are there any effective steps that can be taken to revitalize th enforcement machinery of the U.N. which has remained dorman since the charter was drafted?

3. Can we find ways and means of curbing the excessive use of th veto without discarding our right to protect our vital interests i important issues before the Security Council?

4. Is there any better way of determining just what kinds o problems are essentially within the domestic jurisdiction of states an therefore not properly subject to action by the United Nations?

5. Should we support some system of weighted voting which woul remove voting inequalities in the General Assembly and give to th big nations voting strength more commensurate with their power an responsibility in the world?

6. How can the United Nations be made a more effective instrumen f peaceful change without undermining the principles of stabilit and order in the world?

Faced with fundamental questions like these, some people argu that it would be far more logical to draft a new charter based on a brandnew set of assumptions. This, it seems to me, is an unrealisti approach. It would open a Pandora's box and probably result i leaving the world with a weaker charter.

Chief Justice Marshall once said of the Constitution that "it wa intended to endure for ages to come, and, consequently, to be adapte to the various crises of human affairs."[1] The Constitution has, i fact, proven a living document and has kept pace with the growth o our Nation.

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[1] McCulloch v. Maryland, 4 Wheaton 316,

In a somewhat comparable way the charter has proven flexible enough to be adapted to a good many new situations without the need for formal amendment. In the first decade of U.N. existence, for example, not one formal amendment has been put to the vote in the General Assembly. Even so, many important changes have taken place within the United Nations system. Some provisions of the charter have already fallen into disuse. Others have been applied in a way the framers of the charter did not contemplate.

It is important to remember that we are not examining the charter drafted in San Francisco in 1945. We are examining the charter of 1956 as it has been amplified by custom and usage, resolutions of the various U.N. organs, and treaties like the Atlantic Pact[1] and the Southeast Asia Collective Defense Treaty.[2] If we were to proceed now to consider amendments to the old charter rather than the new, it would be very much like a surgeon planning an operation on the basis of a diagnosis made 10 years ago.

What I am saying is that even though we have a *preatomic* charter, we do not have a *static* charter.

We ought to keep this fact in mind, for any amendment we propose can be rejected by the Soviet Union. But even if this obstacle proves insurmountable, a decade of experience has taught us that a great deal of progress can still be made within the framework of the present charter without resorting to formal charter amendments.

Let me leave you with one concluding thought. It is good that we have a flexible and not a static charter because the next decade of the atomic era is likely to place new strains on the organization. Perhaps its most severe test will be in bringing about peaceful change in our dynamic society in which the atom can bring either unimagined benefits or awesome destruction.

If the next decade brings, as I believe it will, a greater striving for harmonization for relations among nations, the United States must be in the forefront in helping to create favorable conditions conducive to peace, security, and well-being. In our relations with the United Nations we should be completely aware of its shortcomings, enthusiastic over its potentialities, and dedicated to its principles.

As a Nation we have never been defeated in war. We cannot afford defeat in waging peace. If we can rival the soldiers in our dedication and resourcefulness, we can build a peace which will earn us the thanks of future generations.

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[1] *Infra*, pp. 812–815, 853–854, and 871–873.

[2] *Infra*, pp. 912–916.

Part III

POSTWAR SETTLEMENTS

Treaties of Peace With Italy, Rumania, Bulgaria, and Hungary, February 10, 1947

[*Ratification advised by the Senate June 5, 1947; ratified by the President June 14, 1947; entered into force September 15, 1947. For the full texts of these treaties, see Treaties and Other International Acts Series 1648, 1649, 1650, and 1651, respectively; 61 Stat. 1245–2229; and* Treaties of Peace With Italy, Bulgaria, Hungary, Roumania and Finland (*Department of State publication 2743; 1947*). *Summaries of the treaties appear in S. Execs. F, G, H, and I, 80th Cong., 1st sess., pp. 5–13, and in* A Decade of American Foreign Policy, *pp. 460–465, 492–493, 486, and 500.*]

1. REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, FEBRUARY 27, 1947 [1]

The PRESIDENT,

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to their transmission to the Senate[2] to receive the advice and consent of that body to their ratification, in his judgment approve thereof, copies of the treaties of peace with Italy,[3] Rumania,[4] Bulgaria,[5] and Hungary,[6] states with which the United States has been at war. There is also transmitted herewith a summary of each treaty which does not purport to explain or analyze the text itself but merely to outline the subjects dealt with therein.

With the signature of these treaties in Paris on February 10, 1947 by the representatives of the states which were at war with the former enemy state in question and which took an active part in the war sentatives of the ex-enemy states themselves, a long series of negotiations on the part of the Council of Foreign Ministers and the Conference at Paris has been brought to a successful termination.[1]

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[1] S. Execs. F, G, H, and I, 80th Cong., 1st sess., pp. 1–4.

[2] The President transmitted the treaties to the Senate on Feb. 28, 1947; *ibid*

[3] Treaties and Other International Acts Series (TIAS) 1648; 61 Stat., pt. 2

The treaties are not completely satisfactory to any one signatory, nor are they perhaps the best which might have been devised in different circumstances. But they do represent the best which could be achieved by general agreement not only among the members of the Council of Foreign Ministers but among those states which had suffered most from Nazi and Fascist aggression. Moreover they form a cornerstone of the peace structure of which the keystone will be the settlements with Germany and Japan, on the first of which work has already begun aided by the experience gained in these long months of negotiation and discussion.

The genesis of these treaties of peace was the Conference held in Potsdam in July 1945, when the United States, the United Kingdom, and Soviet Union, with the subsequent agreement of France, determined that the first step toward the reestablishment of peace should be the creation of a Council of Foreign Ministers,[2] whose immediate tasks should be to draw up, with a view to their submission to the United Nations, the treaties of peace with Italy, Rumania, Bulgaria, Hungary, and Finland. In this fashion the Council of Foreign Ministers was charged with the duty of preparing the peace for the United Nations which are responsible for maintaining it. As the United States was not at war with Finland, it does not become a signatory of the treaty of peace with that country.

Discussions, which began in London in September 1945,[3] were continued in Moscow in December of the same year,[4] were resumed by the Deputies of the Foreign Ministers in London in January 1946, and by the Council again in April [5] and June in Paris.[6] They were followed by the Conference at Paris, which lasted from July 29 to October 15,[7] and which gave those United Nations which had participated in the military operations against the Axis full opportunity to make known their views and to have those views taken into consideration in the final drafting of the treaties. The latter was accomplished at the November–December meeting of the Council in New York;[8] consequently, when these treaties were finally concluded they had been considered not only by the states members of the Council of Foreign Ministers but by other United Nations in Paris whose recommendations were a most important, if not the determining

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[1] See *Paris Peace Conference, 1946: Selected Documents* (Department of State publication 2868; 1947).

[2] See the protocol of Aug. 1, 1945; *A Decade of American Foreign Policy* pp. 34–36.

[3] See Secretary Byrnes' report of Oct. 5, 1945; *ibid.*, pp. 51–58.

[4] See the tripartite communiqué of Dec. 27, 1945 (*ibid.*, pp. 58–66) and Secretary Byrnes' report of Dec. 30, 1945 (*ibid.*, pp. 66–72).

[5] See Secretary Byrnes' report of May 20, 1946; *ibid.*, pp. 72–79.

[6] See Secretary Byrnes' report of July 15, 1946; *ibid.*, pp. 79–86.

[7] See Secretary Byrnes' report of Oct. 18, 1946; *ibid.*, pp. 86–92.

[8] See the report by the Department of State (released Feb. 2, 1947); *ibid.* pp. 92–97.

Ministers met in New York.

Throughout the meetings of the Council in 1946, and the Conferenc at Paris, Senator Tom Connally, the then Chairman of the Senat Foreign Relations Committee, and Senator Arthur Vandenberg, th then ranking Republican member, were members of the United State delegation and throughout the negotiations gave their most value and effective counsel.

The subjects covered by these treaties have all been discussed a considerable length and require only mention in a report of thi nature. In brief they include the guarantee of human rights, th limitation of armaments in the ex-enemy states, the fixing of reparation, the treatment of the former Italian colonial possessions, th settlement of the Italo-Yugoslav frontier, particularly as it concerne Trieste, the economic and commercial policies to be followed by th former enemy states, freedom of navigation of the Danube, restitutio and return of United Nations property, including compensation fo damages.

The four treaties all contain obligations to grant the full exercis of human rights and enjoyment of the fundamental freedoms to th people in the territories affected by these settlements.

The maintenance by the ex-enemy states of military, naval, an air forces, armaments and fortifications is limited to the strengt necessary for local defense and internal order.

The problem of reparation presented marked difficulties as betwee those countries which had been devastated by one or another of th ex-enemy states and therefore felt entitled to require that reparatio be made to the greatest degree possible and other countries which fel that the most important thing was to build for a future in which al states, even the ex-enemies, would have a definite prospect of economi recovery. The figures as finally established were determined eithe by prior armistice commitments or by agreement upon the amoun which could be paid without depriving the state in question of essentia resources necessary to enable it to subsist without external assistanc In the case of Italy the problem was the most acute, not only becaus of the number of claimants but because it was necessary to find practical means of payment which would avoid interference wit Italy's economic reconstruction and avoid placing a burden upon th Allied and Associated Powers which are determined that Italy shal live.

The disposition of the former Italian colonial possessions was th subject of much discussion. The question whether the inhabitant of some of these areas were prepared for independence or might wis o be incorporated as part of a neighboring state was considered Various forms of United Nations trusteeship—of a single state, o one or more states, or by the Organization itself—were suggested No final choice could be made, but it was decided that the Governments of the United States, United Kingdom, Soviet Union, an France should be given a further year to consider this issue in a mor eliberative atmosphere. If at that time they are not able to agre

Nations, whose decision will be final.

The proposed settlement for the Trieste area and the establishment of the Italo-Yugoslav frontier was long and warmly discussed. As finally agreed, it provides for the establishment of a Free Territory of Trieste, whose free port and transit facilities will be available for use on equal terms by all international trade and, in particular, by Yugoslavia, by Italy, and the States of Central Europe. It is hoped this settlement will make it possible for Trieste to resume its traditional place as a port for the hinterland of Central Europe, without the conflicting rivalries of national aspirations impeding its progress and development. The statute[1] which has been approved by the Security Council of the United Nations provides that the integrity and independence of the Free Territory, the human rights and freedoms of its inhabitants, shall be guaranteed by that body, thus creating a framework for the establishment and maintenance of a genuine international regime for this troublesome and disputed area.

It is important to note that the treaties established the obligation that none of the states in question should for a period of 18 months be permitted to discriminate among the nations in matters pertaining to commerce and industry. Thus the principle of the open door in commerce and economic relations has been established for a period sufficient to permit the subsequent incorporation of this principle in bilateral commercial treaties which will in any case have to be negotiated, and to give to the United Nations of the world time to agree in a more general way upon future commercial practices to govern international trade.

The treaties with Rumania, Bulgaria, and Hungary each contain a provision to insure that navigation upon the Danube is to be free and open to the nationals, vessels of commerce, and goods of all states on a footing of equality, thus establishing the principle that artificial barriers and discriminatory practices at least as regards this important international waterway should be eliminated. Although provision is not contained in the treaties themselves, the Council of Foreign Ministers further agreed that a conference would be held within 6 months for the purpose of establishing an international regime in respect of the Danube.[2]

The treaties likewise provide that the property of the United Nations removed as a consequence of occupation of their territories by enemy forces should be returned, and that property of these nations and their nationals in the territories of the ex-enemy states themselves must either be restored to their owners or if loss or damage prevents restoration the owner should receive compensation therefor in local currency. This was set at the rate of two-thirds of the loss suffered, sufficient to compensate the owner in part and at the same time to avoid placing too heavy a burden upon the economic reconstruction of the countries in question.

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[1] Annex VI to treaty.

[2] For information regarding the Belgrade Conference of August 1948 concerning the Danube, see *Documents and State Papers*, November–December 1948 (Depart-

said, is a long, a hard, and a slow process. In these treaties a beginning has been made. The nations which were at one time partners of the Axis have severed these ties and through the entry into force of these treaties will be enabled to make their own start upon the road to reconstruction and to enter the community of democratic nations Not the least of the results of the entry into force of these instruments will be the expected admission of these states to the body of the United Nations, by which act they will of their own volition accept the obligations of the Charter with its guiding principles for the maintenance of future international peace and security and its machinery to ensure that the principles of the Charter are not empty promises.

Respectfully submitted.

G. C. Marshall.

2. STATEMENT BY FORMER SECRETARY OF STATE JAMES F. BYRNES, MARCH 4, 1947[1]

I do not propose to burden you with long explanations of the discussions in which I participated, leading to the conclusion of the four treaties which are now before you. Nor do I propose to analyze these treaties in detail. Your chairman, Senator Vandenberg, and Senator Connally were at my side throughout the long negotiations lending me their wise counsel and immeasurably lightening the difficult task. They know at least as much of these treaties as I and probably more.

There are several aspects of the negotiations, however, to which I should like to draw your attention. Under the Potsdam agreement the task of preparation of the treaties of peace with Italy, Rumania Bulgaria, Hungary, and Finland was entrusted to the Council of Foreign Ministers.[2]

At London[3] the American Delegation insisted that there should be a peace conference so that other states which had fought the war should be given the opportunity to help make the peace. The Soviet representative opposed the proposal and the Conference adjourned in complete disagreement. At Moscow,[4] three months later, the Soviets agreed to hold the Peace Conference.

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[1] Made before the Senate Committee on Foreign Relations; Department of State *Bulletin*, Mar. 16, 1947, pp. 486–492.

[2] See Section IX of the Protocol of Proceedings of the Berlin Conference, Aug 1, 1945; *A Decade of American Foreign Policy*, pp. 44–45.

[3] i. e., the First Session of the Council of Foreign Ministers, London, Sept 11–Oct. 2, 1945; see *ibid.*, pp. 51–58.

[4] Not a session of the Council of Foreign Ministers, but a meeting of "periodical consultation" of the Foreign Ministers of the "Big Three" as provided in Section XIII of the Protocol of Proceedings of the Crimea Conference, Feb. 11, 1945 (*ibid.*, p. 32) and confirmed in Section I (C) of the Protocol of Proceedings of the Berlin Conference, Aug. 1, 1945 (*ibid.*, pp. 35–36); see also *ibid.*, pp. 59–66

have been desired by all of us, nevertheless, its recommendations provided the basis for the final settlement at the last meeting of the Council of Foreign Ministers in New York.[1]

Out of the 53 Peace Conference recommendations which were adopted by at least a two-thirds majority, 47 were incorporated with little or no change in wording in the final text of the treaties.

Of the 41 recommendations adopted by a majority but by less than a two-thirds majority of the Conference, 24 appear in the final wording.

The other recommendations were not ignored. They were carefully considered in connection with the remaining agreements. For example, without the Conference recommendations upon the establishment of the Free Territory of Trieste, no final solution of this difficult question would have been possible. Its eventual solution contains the basic principles of the Conference's recommendations.

Unsatisfactory though the peace treaties may be from many points of view, their coming into force through their early ratification will insure certain positive advantages for all, including the ex-enemy states themselves, which should not be overlooked in any analysis of the situation created by these agreements.

In the first instance they represent an important, although a limited, step in the direction of the restoration of peace, of order, and of stability. Stability and peace can only be achieved as elements of uncertainty are removed. Until the treaties are ratified, the armistice regimes remain in force. As long as they remain in force none of the states subject to them can look forward to a future free from the possibility of interference in every phase of their national life, an interference which by the terms of the armistices[2] other countries are required to recognize and to accept.

It is true that in Italy we have refrained from exercising many of the rights granted us. But the fact that they still existed was a continuing element of instability for the people and for their government.

Only through the conclusion of a definitive peace can the ex-enemy states resume their sovereign rights and thereby accept full responsibility for their own acts in the future, another important step toward the restoration of stable conditions.

No planning for the future, particularly in respect to economic development, was possible as long as these states were uncertain with respect to their future obligations arising out of the war.

The treaties authorize the ex-enemy states to make application for admission to the United Nations. Once admitted to membership they subscribe to the principles of the Charter and like every other peace-loving state have the right of appeal for the settlement of any have the right to take an equal part in resolving this problem. As a result of such appeals, it is possible that revision of some of the more onerous clauses might be achieved.

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[1] i. e., the Third Session of the Council of Foreign Ministers, New York, Nov 4–Dec. 11, 1946; see *ibid.*, pp. 92–97.

[2] Armistice with Italy of Sept. 3, 1943, and related agreements (TIAS 1604) armistice of Oct. 28, 1944, with Bulgaria *(A Decade of American Foreign Policy)* pp. 482–485; armistice of Jan. 20, 1945, with Hungary (*ibid*, pp. 494–499); armistice of Sept 12, 1944, with Rumania (*ibid.*, pp. 487–491); and armistice of Sept 19, 1944, with Finland (Department of State *Bulletin*, Feb. 18, 1945, pp. 261–263

Our action in consistently pressing for agreement upon these treaties has been influenced by our conviction that there could be no return to normal conditions in Europe until armies of occupation were withdrawn and our realization that they would not be withdrawn in the absence of treaties.

The withdrawal of Allied forces from Italy, Bulgaria, and Finland and the reduction of the garrisons in Rumania and Hungary to the level required only for the maintenance of lines of communication will remove heavy economic burdens from these countries and release them from pressure in other ways.

The withdrawal of occupation troops from lines of communication will result from the conclusion of the Austrian treaty, to which end every effort is now being made.

The United States and British forces in Italy have already been reduced almost below the effective level. The same cannot be said for the forces of occupation in other countries which must now leave within 90 days after the entry into force of the treaties.

I might recall that the settlement involving Trieste was the most ontroversial aspect of our long negotiations. Indeed, until this question had been disposed of it seemed likely that no final over-ll agreement could be achieved. The United States originally proposed that the area west of an ethnic line drawn after careful study by American experts should be the boundary between Italy and Yugoslavia, leaving the Italian populations of Pola and Trieste joined to Italy.[1]

Other frontiers were proposed by different delegations, but the lack of agreement in the Council of Foreign Ministers rendered our thnic solution impossible of general adoption.

Yugoslavia, supported by Soviet Russia, urged the establishment of its frontier even to the west of Italy's pre-1918 boundary. For its contribution to Allied victory Yugoslavia asked to be awarded the whole of Venezia Giulia. Its representatives claimed that the western littoral including the city of Trieste should be joined to its Slav hinterland in spite of the fact that this area was predominantly Italian.

Because of the mingling of the two nationalities throughout the Venezia Giulia area, numerous Italian elements of the population will now be placed under Yugoslav sovereignty. However, the new line does establish a certain balance between the two ethnic groups, and the establishment of the Free Territory does insure home rule to the people of the Trieste area under international guaranties.

It should not be overlooked that upon American insistence guaranties have been inserted to insure the full exercise of fundamental liberties and human rights to any people transferred to alien sovereignty.

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[1] For a map illustrative of this boundary problem, see *infra*, p. 420.

determined that it should be genuinely international in character and that the Security Council of the United Nations, which was to assume the responsibility for the integrity and the security of the territory and the protection of human rights, must have adequate powers to discharge this responsibility. It is my conviction that the Statute of the Free Territory does provide guaranties in this respect.

We can hope that it will provide the framework for the creation and maintenance of a genuine international regime which, if backed by an honest effort on the part of all states concerned, would bring to an end a source of long-standing friction and disturbance.

In order to insure that the Territory shall have the necessary financial resources to stand by itself it was important to ascertain the form and the extent of financial assistance which might be necessary in the early days. The extent of this support was warmly disputed at the last Council meeting in New York, but all were in agreement that this was an important element of the settlement.

A committee of experts was immediately sent to the Territory to investigate and to report prior to the next meeting of the Council of Foreign Ministers what measures should be adopted during the early days of the new Territory's existence to start it on its independent existence. The committee has not yet submitted its report.[1] I am informed that some measure of agreement has been reached upon the long-term measures required but that it may have to be left to the Ministers in Moscow[2] to determine the extent of the immediate assistance required.

It is apparent that the Free Territory will present many serious problems. But it must be remembered that we were compelled to decide between the internationalization of this Territory or having no agreement at all. The Soviets were determined not to leave Trieste as part of Italy. The United States, Great Britain, and France were equally determined that Trieste, with its large Italian population, should not be given to Yugoslavia.

I am reconciled to the compromise for another reason—my fears as to what would have happened had our proposal been agreed to and Trieste given to Italy. Representatives of Yugoslavia had announced their determination to do everything in their power to take over Trieste. Nationals of Yugoslavia were daily moving into the city. After the treaty became effective and the armed forces of the United States and Great Britain returned home, it is probable there would be rioting in Trieste. Yugoslavia would declare it necessary to quell the rioting on its border and troops would be sent into Trieste. A disarmed Italy could not stop them. There probably would be an appeal to the Security Council. We can only speculate as to the result.

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[1] The report of the Trieste Commission of Inquiry, dated Feb. 27, 1947, was printed as an annex to U.N. doc. S/577, Oct. 9, 1947.

[2] i.e., the Fourth Session of the Council of Foreign Ministers, Moscow, Mar 10–Apr. 24, 1947; see *A Decade of American Foreign Policy*, pp. 97–106.

as to the international territory under the control of the United Nations. She will realize there is a difference between encroaching upon the territory of a defeated enemy state that has been disarmed and encroaching upon the Free Territory of Trieste whose integrity and independence is specifically guaranteed by the Security Council of the United Nations.

Other benefits granted to the people of the ex-enemy states assure the maintenance of their basic human rights and fundamental freedoms. These clauses constitute an international obligation and assure other states the right to see to it that they are maintained. In the preparation of these guaranties we also took precautions to prevent the reemergence of identifiable pre-war and wartime anti-democratic elements and the reemergence of pre-war Fascism. No limitations upon the democratic freedom and development of the people are contained in the treaties.

In the preparation of the economic clauses of the treaties, we addressed ourselves to two main problems. One was the liquidation of questions arising from the participation of these countries in the war on the Axis side. The other was the establishment of a basis for the resumption of economic relations between the former enemy states and the United Nations.

The first problem concerned primarily the liability of the former enemy states for the injuries which they caused to the United Nations and their nationals.

During the course of the negotiations the American Delegation strongly urged the viewpoint that the victors should avoid taking steps which would reduce the ex-enemy states to economic chaos. The economic collapse of any country cannot fail to have the effect of retarding recovery in other countries. It would impede the objective of the United Nations of restoring and improving the standards of living generally and establishing economic conditions conducive to the maintenance of peace.

While the United States did not oppose the requirement that Italy contribute to the rehabilitation of the countries she had invaded we found difficulty in accepting reparation proposals which were put forward by the various claimant countries. Italy has few raw materials and has relied for her living primarily on the ability of her people to work, that is, by processing goods for export. She has also relied upon her merchant marine, her tourist trade, and her insurance business.

Most of her important sources of income were lost or substantially curtailed as a result of the war. Consequently, the United States found it necessary to extend substantial amounts of financial assistance to Italy after she joined the Allied forces.

After many months of discussion a formula was found for dealing with the Italian reparation problem which appeared to constitute a reasonable compromise between the conflicting viewpoints. To a small extent, Italian reparations will be met out of the Italian factory and tool equipment which was devoted to military purposes ment permitted under the treaty and cannot be converted to peaceful production.

Italian reparation obligations will also be met out of certain Italian investments, notably in the Balkan countries and in some of the ceded territory.

The principal source of Italian reparations, however, will be the delivery of goods from current Italian industrial production. We refused to agree to this source until we devised a program which would avoid having the United States furnish the means of paying reparations.

In the first place, deliveries from current production are not required to begin until two years after the treaty comes into force.

In the second place, the reparation-recipient countries are called upon to furnish to Italy those raw materials needed in the production of reparation goods which are normally imported into Italy.

The value of such materials is to be deducted from the value of the goods delivered by Italy.

The period over which reparations are to be paid is seven years, including the initial two years during which deliveries from current production are not mandatory.

Under this system Italy will be given a breathing space during which she can get her economic house in order, and the total volume of deliveries in any year should not be such as to place too heavy a burden on the Italian economy.

In the case of Rumania, the treaty leaves the reparation obligation, which is payable only to the Soviet Union, at the level of $300,000,000 fixed in the armistice agreement. Although Rumania is now suffering economic difficulties as the result of a severe drought, she has basic resources which seemed to us adequate to sustain this reparation obligation.

In the case of Hungary the United States Delegation felt that the reparation of $300,000,000 fixed in the armistice agreement with Hungary should be reviewed. During the period following termination of hostilities, the Hungarian economy suffered a very severe crisis culminating last year in a currency inflation of astronomical proportions. While we were aware of the fact that the cause of this situation lay partly in the disorganization resulting from the war, we felt that a very important contributing factor was the reparation program and the exactions laid upon Hungary under the terms of the armistice to support the Soviet armed forces in that country.

We tried repeatedly to induce the Soviet Union to join with us and the British Government in reviewing the Hungarian situation but they refused to enter into such discussions.

Having failed to obtain agreement on a review of the situation, we proposed during the Peace Conference that the Hungarian reparation obligation be reduced. Our proposal did not obtain a large number of votes, and the alternative proposal to leave the reparations at $300,000,000 was voted by the Peace Conference by a bare majority.

Meanwhile, the Soviet Union had entered into direct discussions in the schedule of Hungarian deliveries.

In the light of all the circumstances and particularly t
the treaty will result in the withdrawal of the Soviet
Hungary, except for the troops necessary to maintain
communications to Austria, we resolved our doubts in
Paris Peace Conference recommendation, that the repa
be left at $300,000,000.

In the case of Bulgaria, reparation claims were advan
Greece and Yugoslavia. The Paris Conference recomme
than a two-thirds vote that reparations be fixed at $125,00
Soviet Union considered this amount to be in excess o
ability and out of line with the amounts fixed for other co

Agreement was ultimately reached on the figure of
which is not entirely comparable to the figure of $125,000
of changes in the basis of valuation of reparation deli
favorable to the recipient states.

A question related to reparation, and one of direct int
United States, was that of treatment of Allied property in t
countries and the extent to which compensation should
damages sustained by such property.

In Italy the property holdings of our nationals are in t
hood of $130,000,000. More than half is in industrial and
enterprises. In Rumania our investments amount
$40,000,000, consisting principally of interests in th
industry. Our investments in Hungary can be es
$20,000,000 and in Bulgaria about $3,000,000. These
investments and do not include our security holdings
other miscellaneous properties and finanical interests.

Provisions have been included in the treaties for the r
Allied properties to their owners and for the repeal of dis
laws and other measures taken against Allied property du
The properties are to be restored in good order by the ex-e
Where this cannot be done, compensation will be made t
in local currency at a rate sufficient at the time of paym
two thirds of the loss suffered.

It is obviously impossible to restore everyone to the ex
which he had before the war, and the American Delegatio
the provisions ultimately agreed upon to constitute a reaso
of satisfaction of the claims of property owners.

While only partial compensation is provided for dama
by property owners in the ex-enemy countries, it must be
that the payment of reparations will permit only an
amount of compensation for damages suffered in the invad

It seemed to us that we could not press for full compens
class of claimants, particularly in the light of the total b
placed upon the former enemy countries in the peace trea

Other provisions in the treaties deal with such matters
of property looted in the invaded countries, renunciati

currency and military requisition, and a variety of other matters.

It seemed to us desirable that the treaties constitute as far as possible a settlement of all questions arising out of the war and that methods be provided which would enable disputes arising in regard to the interpretation or execution of the treaty provisions to be speedily resolved. We encountered some difficulty in reaching agreement on a procedure for settling disputes, but a formula was ultimately found which I believe will furnish a satisfactory basis for the ultimate resolution of those questions which cannot be resolved by bilateral negotiation.

It is our hope that these states will soon be admitted to the United Nations Organization and also to various specialized agencies which have been created by the United Nations. Through the specialized agencies of an economic character, such as the International Bank, the Monetary Fund, the International Aviation Organization, the International Trade Organization, and other international bodies, the former enemy states will be enabled to join with the United Nations in cooperative action looking forward to the stabilization and improvement of international economic relations and a general increase in trade and employment.

Prior to the outbreak of the war the Balkan countries had been subjected to strong economic pressure by Germany through clearing agreements and other devices. The economic dominance which Germany gradually obtained over them was used not only as an instrument against the commercial interests of other countries but as a means of undermining the independence of the Balkan countries.

With the defeat of Germany it is natural that the countries of eastern Europe will cultivate much closer economic relations with the Soviet Union than they had before the war.

However, we have been disturbed over the development since the end of hostilities of economic policies and practices which seemed to us would result in a new set of discriminatory arrangements in the Balkan area.

After a long discussion we reached agreement on provisions guaranteeing equality of economic opportunity for a year and a half after the peace treaties come into force, during which period it is contemplated that the United Nations will enter into new trade arrangements with the former enemy states.

These provisions require the ex-enemy states to grant, to each of the United Nations which grant similar treatment to them, nondiscriminatory treatment in matters of trade and equal status with their own nationals in the conduct of business activity within the country. Furthermore, the treaties prohibit discrimination in matters relating to civil aviation and guarantee for the same period of a year and a half equality of opportunity to all the United Nations in negotiating for civil-aviation rights.

Another important provision directed to the maintenance of the open door in the Balkans is the treaty clause on the Danube and the conference to establish a new Danube regime.[1]

For almost a century there have been international guaranties of freedom of commerce and navigation on the Danube. These principles are reaffirmed in the treaties with the satellite states.

The agreement of the Council provides that a conference shall be convened within six months after the entry into force of the treaties to establish a new international regime for navigation on the Danube. The countries which will participate in the conference are the states bordering on the Danube, including the Soviet Union, together with the United States, Great Britain, and France.[2]

These arrangements were a compromise, and I think a reasonable one, between the desire of the Soviet Union that arrangements respecting the Danube should be left solely in the hands of the riparian states and the view of the other three powers which participated in drafting the peace treaties that the Danube question concerns all ountries and that its settlement should involve appropriate participation by non-Danubian states.

The economic clauses of the treaty constitute only one step in the process of clearing away the debris of the war and the rebuilding of the shattered European economy. While certain provisions will be regarded as harsh, the treaty clauses do lay the basis for resumption of normal and healthy relations between the former enemy countries and the United Nations. Taken as a whole, they have appeared to the American Delegation as constituting a reasonably satisfactory solution of the very difficult problems involved in harmonizing all of the conflicting viewpoints.

No final disposition of the Italian colonies was agreed upon in the Italian treaty. The treaty provides for further study of this question by the four powers in consultation with other interested countries, and if they are unable to agree the matter is to be left to the decision of the General Assembly of the United Nations.[3] In the meanwhile, the colonies will remain under the control of the British occupationa authorities.

I regard it as of great significance that we were able to get acceptance of our proposal that in the absence of agreement among the four powers the United Nations, without any state having the right of veto, should determine what should be done with these colonies.

I have no doubt that each Senator can find in the treaties some provision to which he objects. I hope, however, that in considering the question of ratification he will recall our own difficulties reaching agreement under the unanimous-consent rule. This is the rule that prevails in the Council of Foreign Ministers because no one of the great powers can be forced to sign a treaty.

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[1] This agreement was reached at the Third Session of the Council of Foreign Ministers, New York, Nov. 4–Dec. 12, 1946; see *A Decade of American Foreign Policy*, pp. 92–97.

[2] For the Danubian Conference held at Belgrade, July 30–Aug. 18, 1948, se *Documents and State Papers*, November–December 1948 (Department of Stat publication 3363; 1949), pp. 487–513.

[3] See *A Decade of American Foreign Policy*, pp. 471–475.

when we have common interests and a common language, you will realize how much more difficult it is to reach unanimity in the Council where states have conflicting interests and those conflicts of interest must be presented in different languages.

I believe that the agreements reached are as good as we can hope to obtain at this time or for some time to come. I believe that it is much better for us and for the countries concerned if we ratify these agreements than if we have no agreements.

The fact that agreements were possible even in this limited field will create an element of stability. It disposes of one source of international argument and discussion. It demonstrates that the nations that won the war can agree as to the peace and should make it easier for us to agree on the other treaties.

3. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, MAY 15, 1947 (Excerpts) [1]

The Committee on Foreign Relations, having had under consideration the treaties of peace with Italy, Rumania, Bulgaria, and Hungary, signed at Paris on February 10, 1947, unanimously report all four treaties favorably and recommend that the Senate advise and consent to their ratification.

MAIN PURPOSE OF THE TREATIES

The main purpose of the peace treaties is to formally bring to an end the legal state of war which still exists between the Allied and Associated Powers on the one hand and Italy, Rumania, Hungary, and Bulgaria on the other. The treaties will also settle many economic, political, and military questions still outstanding as a result of the war and will form the basis of friendly relations among these states in the future.

NEGOTIATION OF THE TREATIES

When the heads of Government of the United States, Great Britain, and the Soviet Union met in Potsdam in July 1945 they agreed that the first step toward the reestablishment of peace should be the preparation of treaties of peace with Italy, Rumania, Bulgaria, Hungary, and Finland, and that the task of preparing these treaties should be given to the Council of Foreign Ministers which, in turn, would submit them to the United Nations. The Council of Ministers met in London in September 1945, and in Moscow in December of the same year. From January to April 1946 the Council's deputies continued the work of preparation of treaty texts [2] and the Ministers

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[1] S. Exec. Rept. No. 4, 80th Cong., 1st sess., pp. 1–15.

[2] The Deputies met intermittently from Jan. 18 to May 27, 1946.

Throughout these discussions the United States delegation insisted that not only the great powers but all nations which actively participated in the European war should have a voice in making the peace with Italy and the Axis satellite states.

In consequence of American initiative a Peace Conference was convened in Paris, which lasted from July 29 to October 15, 1946 during the course of which the 21 invited nations[2] were given every opportunity to make their views known regarding the kind of peace they wished to see established.[3] The recommendations of this Conference were then transmitted to the Council of Foreign Ministers which completed the final drafting in New York in November and December 1946. Out of the 53 Peace Conference recommendation adopted by the Paris Conference by at least two-thirds majority, 47 were incorporated with little or no change in the final text approved by the Council. In all respects the recommendations of this Conference provided the basis for final agreement and without them no peace settlement could have been achieved. Consequently, they represent the composite judgment of those nations whose fighting forces made victory possible.

MAJOR ACHIEVEMENTS OF THE TREATIES

A complete summary of the treaty provisions is contained in the annex to this report. It is sufficient here to summarize their major accomplishments and briefly to deal with the subjects covered.

In the first instance they represent an important first step toward the restoration of peace, order, and stability. Stability and peace can only be achieved as uncertainty is removed. Until the treaties enter into force the armistice regimes continue with their restriction upon the sovereignty and independence of these states, leaving open the opportunity for further interference in their internal affairs.

The conclusion of the peace treaties, furthermore, constitutes a necessary preliminary to the admission of these states to the United Nations. Once admitted upon an equal status to membership, they subscribe to the principles of the Charter and have an equal voice with other nations in the settlement of problems relating to their peace security, and future welfare.

These treaties will result in the withdrawal of Allied forces from Italy and Bulgaria and the reduction of occupation garrisons in Rumania and Hungary to the level required only for the maintenance of lines of communication. Freed from the burden of occupation

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[1] These meetings were held from Apr. 25 to May 16 and from June 15 to July 12, 1946, respectively; see *A Decade of American Foreign Policy*, pp. 72–86.

[2] The United States, China, France, the Soviet Union, the United Kingdom Australia, Belgium, the Byelorussian S.S.R., Brazil, Canada, Czechoslovakia Ethiopia, Greece, India, the Netherlands, New Zealand, Norway, Poland, the Ukrainian S.S.R., the Union of South Africa, and Yugoslavia.

[3] For the record of this conference, held July 29–Oct. 15, 1946, see *Paris Peace Conference, 1946: Selected Documents* (Department of State publication 2868; 1947).

struction lying ahead of them.

The four treaties further contain obligations to grant the full exercise of human rights and the enjoyment of the fundamental freedoms to the people in the territories affected. Maintenance by the ex-enemy states of military, naval, and air forces, armaments, and fortifications is limited, in harmony with the principles of the Atlantic Charter, to the strengths necessary for local defense and internal order.[1]

The extent of reparations which had been claimed against these states is finally settled by the treaties. The problem itself presented marked difficulties between the claims of those states which were devastated by the forces of the ex-enemy states and therefore felt entitled to require that reparation be made to the greatest degree possible, and those countries which felt that the important thing was to build a sound basis of economic rehabilitation for the future. Agreements as finally reached were determined by the prior armistice commitments[2] or by agreement on the amount which could be paid without depriving the states in question of the essential resources necessary to enable them to live without external assistance and without placing additional burdens upon the Allied and Associated Powers.

The provisions relating to Italian colonies, while not providing a final settlement, lifted this issue from the controversial aspects of conflicting claims. By affording opportunity for consultation, not only among the interested governments but with the peoples of the areas in question, the treaties give promise that any final solution will be in harmony with the principles of the Charter of the United Nations.

The settlement involving Trieste and the establishment of the Italo-Yugoslav frontier gave rise to the greatest difficulties throughout the entire negotiations. Without a settlement of this problem it seemed likely that no over-all agreement could be secured. When agreement upon the ethnic solution proposed by the United States proved impossible, and no agreement could be reached on alternative frontiers proposed by different delegations, internationalization of this area was suggested as the only means possible of achieving agreement. The United States then took the lead in making certain that the security and independence of any such area should be assured by the Security Council, the body which has been entrusted with the responsibility of maintaining peace. Guaranties have been inserted so that the population of this area may be free to enjoy the human rights and fundamental freedoms guaranteed to all peoples by the United Nations Charter and may develop their own institutions under the protection of international authority. The frontier line between Italy and Yugoslavia establishes furthermore a certain balance between the two ethnic groups. The statute for the free port of Trieste was drawn with the aim of making it possible for Trieste to resume its traditional place as a port for the hinterland of eignties impeding its development.

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[1] For the text of the Atlantic Charter, see *A Decade of American Foreign Policy*, pp. 1–2.

[2] For the texts of the armistice agreements with Italy, Bulgaria, Rumania, and Hungary, see *ibid.*, pp. 455–457, 482–485, 487–491, and 494–499, respectively.

It is important to note that the treaties established the obligatio that none of the states in question should for a period of 18 months b permitted to discriminate among the nations in matters pertainin to commerce and industry. Thus the principle of the open door i commerce and economic relations has been established for a perio sufficient to permit the subsequent incorporation of this principle i bilateral commercial treaties which will in any case have to be negotiated, and to give to the United Nations time to agree in a mor general way upon future commercial practices to govern internationa trade.

The treaties with Rumania, Bulgaria, and Hungary each contain provision to insure that navigation upon the Danube is to be free an open to the nationals, vessels of commerce, and goods of all states on footing of equality, thus establishing the principle that artificia barriers and discriminatory practices at least as regards this importan international waterway should be eliminated. Although provisio is not contained in the treaties themselves, the Council of Foreig Ministers further agreed that a conference would be held within months for the purpose of establishing an international regime i respect of the Danube.[1]

The treaties likewise provide that the property of the Unite Nations removed as a consequence of occupation of their territorie by enemy forces should be returned, and that the property of thes nations and their nationals in the territories of the ex-enemy state themselves must either be restored to their owners or if loss or damag prevents restoration, the owner should receive compensation in loca currency. This was set at the rate of two-thirds of the loss suffered sufficient to compensate the owner in part and at the same time t avoid placing too heavy a burden upon the economic reconstruction o the countries in question.

THE COMMITTEE HEARINGS

On March 4 the committee began its public hearings on the peac treaties when Secretary Marshall and former Secretary Byrnes appeared on behalf of the Department of State. Secretary Marshal spoke briefly, expressing the hope that the Senate would approv ratification.[2] Former Secretary Byrnes then discussed the treaties an analyzed the Italian treaty in some detail, explaining the position th United States delegation had taken at the Peace Conference.[3] Hearings were resumed on April 30 and May 1, 2, and 6, when 26 witnesse appeared to testify, all but one in opposition to the Italian treaty Most of these individuals represented Italian-American organization in the United States. Although the committee heard all those wh against the treaties with Rumania, Hungary, and Bulgaria. One witness against the Rumanian treaty is represented by a complete brief in the committee hearings. On the final day of the hearings Secretary Marshall and former Secretary Byrnes dealt with the arguments presented by the preceding witnesses, and once again expressed the hope that the treaties would be ratified at an early date.

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[1] This agreement was reached at the Third Session of the Council of Foreig Ministers, New York, Nov. 4–Dec. 12, 1946; see *ibid.*, pp. 92–97.

[2] *Treaties of Peace with Italy, Rumania, Bulgaria, and Hungary: Hearing before the Committee on Foreign Relations, United States Senate, 80th Cong., 1s Sess., on Executives F, G, H, and I* (Washington, 1947), pp. 1–3.

A complete list of the witnesses and the organizations they represented follows below:

. . . .

SUMMARY OF ARGUMENTS AGAINST THE ITALIAN TREATY

Witnesses who appeared in opposition to the Italian treaty raised criticisms of both a specific and a general nature. They denounced the treaty as harsh and unjust, claiming that it failed to recognize adequately the contributions Italy made to the United Nations during the final phases of the war. Specific criticisms centered about reparations, the internationalization of Trieste, the Venezia Giulia settlement, the cession of Tenda-Briga to France, the Italian colonies, and the military clauses of the treaty. All these arguments are examined in detail in later sections of this report.[1]

Apart from these specific objections a number of criticisms were directed to the general proposition that it was not in the interests of the United States or world peace to proceed with ratification at this time. The United States had agreed upon the terms of the Italian treaty, the argument runs, as a part of a general pattern and on the assumption that real progress would be made with respect to the total world settlement. Meantime, the international situation has changed considerably and we might do well to withhold action until we can see better the pattern of events unfolding in the world. In particular, certain witnesses argued, we should not commit ourselves to any course of action in Italy until we know what is going to happen with respect to Austria and Germany. The program of assistance to Greece and Turkey reemphasizes the necessity of thinking in global terms. What would be the effect upon the world political situation of the withdrawal of American troops from Italy? And why should the United States take steps to weaken Italy at the same time we are extending military assistance to Greece and Turkey? The whole matter should be reviewed, declared some of the witnesses, in the light of our evolving policy in the Mediterranean and in the light of our failure to secure satisfactory progress with respect to the peace settlement in general.

STATUS OF ITALY UNDER THE TREATY

It has been argued that the treaty does not take into account Italy's contribution to the common struggle waged against Nazi Germany, and that Italy is treated as an enemy state and not as a cobelligerent. There is no doubt that many of its provisions seem harsh to Italy. In this respect, however, the treaty represents balance between the more far-reaching claims of those states whic had suffered from Fascist aggression in the past and the insistence o other states, including the United States, which considered that th contribution of the new Italy toward the defeat of Germany shoul weigh against these heavier demands. In the view of the 20 Unite Nations which signed the treaty[1] sufficient guarantees are containe in the agreement to enable Italy to begin its reconstruction knowin what it has to face in the future and with the possibility of improvin its status. Furthermore, through these treaties Italy would obtai the right to join the United Nations and its various specialized agencies. Thus it will be enabled to cooperate on an equal footing wit the other United Nations in joint action looking forward to th stabilization and improvement of international economic relation and the general increase in trade and employment.

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[1] Not reprinted here.

REPARATIONS PAYMENTS

Witnesses who appeared before the committee criticized th reparation settlement in the Italian treaty on the ground that i placed an impossible economic burden on Italy; that the reparations at least in part, would in fact be paid by the United States as a resul of our relief grants to Italy; and that the reparations would tie Ital to the Soviet economy.

The total amount of reparation which the treaty requires Italy t pay is $360,000,000, divided as follows:

Albania	$5, 000, 00
Ethiopia	25, 000, 00
Greece	105, 000, 00
Union of Soviet Socialist Republics	100, 000, 00
Yugoslavia	125, 000, 00

In addition, France will obtain the hydroelectric plants in th territory ceded to her, subject to the guaranties in Italy's favo eferred to below, and certain other countries will have the right t satisfy their claims from Italian assets in their territories.

The reparations will be paid in part, although probably not to arge extent, from Italian factory and tool equipment designed fo the manufacture of war material which is not needed to support th imited military establishment Italy is permitted to have under th treaty and which is not readily susceptible of conversion to civilia purposes.

The $100,000,000 share of reparations to the Soviet Union is t be paid in part by the transfer of Italian assets in Rumania, Bulgaria and Hungary. The value of these assets is to be fixed by the Ambas

Italian Government agrees to make an exception to this provision.

There are several provisions, in addition to the 2-year moratorium, which were insisted upon [by] the United States delegation, to safeguard the interests of Italy and of the United States. The materials needed to produce reparation goods which are normally imported into Italy must be furnished by the reparation-receiving country. The schedules of deliveries must be agreed upon with Italy and must be so arranged as to avoid interference with Italian economic reconstruction or the imposition of additional liabilities on other Allied countries.

In his appearances before the committee, Mr. Byrnes testified that claims totaling $20,000,000,000 to $25,000,000,000 had been put forward against Italy. It was also brought to the committee's attention that during the preparation of the treaty Italian representatives had indicated they had no objection to the arrangement for meeting the claims of the Soviet Union; that they preferred payments from current production to the removal of factories and plants; and that they themselves had talked of total reparation payments of $200,000,000 to $300,000,000.

The figure of $360,000,000 finally agreed to be paid over a period of 5 to 7 years does not seem unduly burdensome, particularly in the light of the safeguards incorporated into the treaty. With due allowance for the damage suffered by Italy during the war, it might be pointed out that this figure is very much smaller than the amounts which Italy spent for military purposes just before the war during a single year. The average military expenditures in 1937 to 1940 were $900,000,000 per annum. Nor does it seem likely that annual payments of the scale required would necessarily cause Italian trade to be oriented toward the reparation-receiving countries. The safeguards included in the treaty also appear adequate to insure that the cost of the reparation will be borne by Italy and will not be transferred to other countries.

TRIESTE AND THE ITALO-YUGOSLAV FRONTIER

Witnesses who appeared before the committee argued that the predominantly Italian city of Trieste should have been returned to Italy, that the new frontier between Italy and Yugoslavia was not drawn in accordance with ethnic principles, that the cession of Venezia Giulia is morally, strategically, and economically unsound, and that by depriving Italy of its strategic position in the Adriatic it is exposed to attack from Yugoslavia. On the other hand evidence was presented to the committee to show that this problem represented one of the most difficult of all with which the Council of Foreign Ministers had to deal.

The population of this area is a mixed one, and even the Italian Government admitted that from an ethnical and economic point of view Yugoslavia was entitled to some rectification of the frontier. The United States had originally proposed that the area west of an ethnic line, drawn after careful study by American experts, be re-based on other ethnic considerations, were proposed by different delegations and it was clear that the lack of agreement rendered the American proposal impossible of general acceptance. Yugoslavia claimed the entire province of Venezia Giulia, extending its demands even to territory west of Italy's pre-1918 frontier, and argued that because the entire hinterland of the peninsula was Slav, Yugoslavia should be given the peninsula's national outlet to the sea through Trieste and the coastal littoral.

When the line establishing Yugoslavia's western frontier in this area was agreed upon it was drawn in conformity with a French proposal designed to balance the minorities left on either side. Although this was not strictly in accordance with the American view it does nevertheless establish a certain balance between the two ethnic groups. Furthermore, the creation of the free territory, in harmony with the principles of the Atlantic Charter, assures home rule to the people of the area under an international guaranty. The treaty likewise guarantees that the water and hydroelectric-power resources of Venezia Giulia will continue to be used for the benefit of the population of this area regardless of the changes in the frontier.

It has been demonstrated to the committee that many weeks were spent in the preparation of these guaranties which will ensure that the area will be genuinely international in character and that the Security Council of the United Nations, which has agreed to assume the responsibility for the integrity and security of the territory and the protection of the human rights of its inhabitants, has adequate authority to enable it to discharge this responsibility.[1]

Critics of the free territory have pointed to the example of Danzig as evidence of the dangerous character of a free port. The framers of the guaranties for the free territory of Trieste constantly had thi example before them and they took pains to ensure that the International Organization would have adequate authority this time, which was not the case in Danzig. Any threat to the continued existenc and integrity of the free territory no longer involves a dispute between a strong country and a weak country but a threat by one nation against the combined authority of the United Nations as a whole. If we cannot rely on the United Nations to fulfill their responsibility which they have solemnly undertaken, how much less could reliance be placed upon the military force which Italy alone could put into the field? The responsibility of the United Nations is directly engaged in the protection of the free territory and any other solution could only have resulted in a continuance of long standing national rivalries.

Before leaving the subject of Trieste it may be noted that critic have argued that leaving this question open would probably lead to a solution more favorable to Italy. There is no reason to believe however, that others would not also take advantage of this delay and reopen the question in their own interest as well.

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[1] Security Council resolution of Jan. 10, 1947; S/INF/2 (July 18, 1949), pp 66–67.

In requiring that Italy make certain rectifications along its northwestern frontier in favor of France it has been argued that Italy lost important hydroelectric developments in the Tenda-Briga area upon which industry in Liguria and Piedmont is dependent. With the exception of the cession of Tenda and Briga the frontier modifications are of minor importance and put an end to long-standing disputes between France and Italy. Without these rectifications it is likely that France, which had been treacherously attacked during the early stages of the war by Mussolini, could have been influenced by public opinion to present a bill for larger reparations to compensate for damages caused by the Fascist invasion. Insofar as the power plants in Tenda-Briga are concerned, careful guaranties were inserted at the insistence of the United States to ensure that an adequate supply of both water and power would be available to industry in northwestern Italy at a price not higher than that paid by French nationals for such facilities.

DISPOSITION OF ITALIAN COLONIES

It has been argued by some people that, in order to provide a natural outlet for Italy's surplus population and to bolster its weakened economic structure, its pre-Fascist colonies should have been left either under direct Italian sovereignty or under a trusteeship administered by Italy. In harmony with the principles of the United Nations Charter, and in an effort to avoid conflicting claims put forward by individual powers, the United States originally proposed that these strategically important areas should be administered by an international authority in which both the native population and the interested governments, including Italy, should have a voice. No agreement was possible either upon this proposal, upon the French proposal to select Italy as the trustee, or on others presented. The treaty arrangement calls for a settlement of the colonial question by the Council of Foreign Ministers through its deputies. A year is to be devoted to a comprehensive study of the problems involved in the administration of these areas and to consultation with the inhabitants themselves, some of whom have manifested strong opposition to return under Italian control. If the four powers cannot agree to a solution the United Nations Assembly has been selected as the final arbiter. Thus the complicated problem involved in any settlement of dependent areas is placed before the highest tribunal the 55 United Nations have been able to create.

MILITARY CLAUSES OF THE ITALIAN TREATY

In the opinion of many persons the limitations imposed upon Italian armed forces, upon its armaments, and upon its fortifications leave Italy in a completely defenseless position. As has previously been stated, the military clauses were carefully drawn by the military experts of the 21 nations to ensure that Italy would have adequate forces to enable it to meet tasks of internal security and local frontier defense, thus enabling it to take care of subversive activities from within. For states, must rely upon the pledges exchanged in the Charter of th Jnited Nations and not upon competition in armament. Whateve nilitary establishments Italy in its present weakened economic condi ion could afford to maintain beyond those provided in the treaty woul not enable it to withstand a determined attack from abroad. Eve ssuming that the Allied states would have been willing to permi earmament by Italy, should it devote its limited economic possibilitie o further rearmament, its resources would be drained away from th ask of rehabilitation and reconstruction which is essential to th reation of a stable factor in the Mediterranean area. The provision vhich relate to Italian fortifications on its northeastern frontier wer lesigned to reassure countries which had been the victims of Fascis ggression that the treaty would prevent any reestablishment of an nilitary threat to them. As the frontier is a new one the obligatio f demilitarization refers more to the future than the present.

UNITED STATES EFFORTS TO ATTAIN JUST PEACE

During the hearings committee members were impressed by th incere opposition of the friends of Italy to certain of the provision f the Italian treaty. But they were also greatly impressed by th act that, during the long course of negotiations, the United State lid everything possible under the circumstances to ameliorate th erms of the treaty and to bring about a just peace for the Italia eople. Specific questions raised at the hearings by the chairman o he Foreign Relations Committee indicate that, at every turn of th oad, the United States delegation undertook to protect as liberall s possible the interests of the new Italy.

As has been noted in an earlier section of this report, reparations i n important case in point. The total claims actively pressed agains taly by various members of the United Nations amounted to be ween 20 and 25 billion dollars. Largely through the insistence o he United States this figure was ultimately reduced to $360,000,00

Trieste is a second case in point. The United States originall roposed that Trieste be left to Italy in view of the predominantl talian population there. Later it became evident that the creatio f the free territory of Trieste was essential if final agreement wer ver to be reached on the treaty. At that point the United State uccessfully insisted upon the inclusion in the treaty of importan afeguards for the independence and the territorial integrity of th rea.

The restoration of United Nations property in Italy is a third cas n point. The United States proposed that payment be made b taly to the extent of 25 percent for losses or damage to such property ertain other states insisted upon a 100-percent payment. A com romise figure of 66⅔ percent was finally agreed to by the Unite tates in recognition of the burden which such losses placed on othe ountries. The United States also, having concern for the Italia conomic situation, insisted that this compensation be paid in lir ather than foreign exchange.

19, 45, 46–66, 74, 75, 77, 78, 79, 80, 81, 83, 89, and annexes IV, V, X, XIV, and XV, the United States delegation took a liberal position, in many instances securing important concessions on behalf of Italy. Thus confronted with this review of the negotiations, it seemed to the committee that the United States had once more amply demonstrated its traditional friendship for the Italian people.

DIFFICULTY OF REACHING AGREEMENT AT INTERNATIONAL CONFERENCES

During the course of the hearings witnesses who complained of the terms of the Italian treaty were frequently reminded that the United States was not in a position to dictate the provisions of the treaty. The conclusion of an international agreement is a cooperative enterprise. Probably no important treaty ever drafted has been entirely satisfactory to all the contracting parties. While each state has its own point of view and its own claims to present, it is normally compelled to make certain concessions before agreement is possible. Clearly, therefore, it was not possible to formulate a treaty that would meet with the approval of the United States in every respect. Our delegation agreed to some of the clauses only with the greatest reluctance. What finally emerged was an imperfect treaty but a treaty which, by the very fact that it represented the highest common denominator of agreement among the Allied Powers, was assured of the support necessary to put it into force.

WOULD A SEPARATE PEACE WITH ITALY BE IN THE INTERESTS OF THE UNITED STATES OR ITALY?

Certain witnesses have proposed unilateral action terminating the state of war between the United States and Italy and an agreement to settle economic and financial problems existing between the two countries. In the first instance, insofar as the interest of the United States is concerned, it must be recalled that less than a month after Italy declared war on this country the United States joined with the other principal Allied and Associated Powers in the United Nations Declaration of January 1, 1942, by the provisions of which "each government pledges itself to cooperate with the governments signatory hereto and not to make a separate armistice or peace with the enemy."[1] By unilateral action on the part of the United States, or an arrangement of its own, Italy's status in the international community cannot be settled; its definitive frontiers cannot be established; it is barred from the United Nations, from participation in many international meetings looking toward economic reconstruction; nor can its relations with its neighbors in Europe be settled. Furthermore, however limited they are alleged to be, Italy cannot derive any of the positive advantages from this treaty, such as the return of certain Italian property abroad, recovery of assets in Great Britain and other countries, restitution from Germany, collection of prewar debts owed to Italian nationals, and other similar economic provisions.

It has been pointed out that these treaties, which are part of the general peace settlement, contain compromises agreed to with the expectation that they would facilitate the over-all settlement and that this settlement has been retarded by developments in Moscow. Consequently, it has been suggested that either these compromises no longer achieve the purpose for which they were agreed and should be rejected, or else the entry into force of these agreements should be postponed until we are able to see whether in fact they achieve the purpose for which they were intended.

Should the United States adopt this course it would constitute a unilateral departure from the policy which it has advocated since the cessation of hostilities and the Potsdam Conference of July 1945. At that time the United States agreed with the United Kingdom and the Soviet Union that these treaties should constitute the first step in the establishment of the general European peace; that in recognition of the fact that these countries broke off relations and entered the war against Germany they were entitled to first consideration; and that their anomalous position should be terminated without awaiting the conclusion of the occupation in Germany and the German peace settlement.[2] The consequence of such unilateral action on the part of the United States and the exercise of such a veto have been set forth by the Secretary of State in his testimony, of May 6, 1947, to which reference is made in another section of this report.

THE POSSIBILITY OF TREATY REVISION

While it is generally agreed that the Italian treaty has certain objectionable features, it is the best which could be negotiated under the circumstances. Moreover, it would be unrealistic to expect agreement on a better treaty within the near future. The committee believed it advisable, therefore, to approve the treaty at an early date, thus consummating the first step toward restoring Italy to a position of parity with other nations. Once this is done the Italian Government might then work toward the revision of the objectionable clauses.

There are several ways by which revision might be brought about. Article 14 of the United Nations Charter provides that the General Assembly—

> may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations . . .

The term "regardless of origin" was interpreted at the San Francisco Conference to include treaties. Article 14, therefore, offers a possibility whereby the Italian Government—once Italy becomes a

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[1] A reference to the Soviet Government's position during the Fourth Session of the Council of Foreign Ministers, Moscow, Mar. 10–Apr. 24, 1947; see *ibid.*, pp. 97–106.

[2] See Section IX of the Protocol of Proceedings of the Berlin Conference, Aug

member of the United Nations—may present any grievance it might have with respect to the treaty to the General Assembly. Likewise, if Italy believes that a specific provision of the treaty "endangers the maintenance of international peace," it could present the matter to the Security Council under articles 34 and 35 of the Charter. Moreover, with respect to provisions which affect Italy and one or two other states, there would surely be no bar to a future revision which might be agreed upon between Italy and the states concerned.

Provision is also made in the treaty itself for the modification of its military, naval, and air clauses. Article 46 provides that these clauses shall—

> remain in force until modified in whole or in part . . . by agreement between the Security Council and Italy.

This means that when a general plan of disarmament is agreed upon, Italy will be brought into that plan along with the other United Nations and the military, naval, and air clauses of the treaty would be abrogated. Likewise, when Italy is asked to make armed forces available to the Security Council, under article 43 of the Charter, it would seem reasonable to assume that the present treaty limitations would be appropriately altered.

RECOMMENDATIONS OF THE SECRETARY OF STATE

When Secretary Marshall appeared before the committee at its final hearing after his experience in Moscow,[1] he was even more emphatic in his view that the treaty should be ratified as quickly as possible. He stated that—

> The further developments of the final draft and its significance are familiar to all. [But] this was a community of the world, of the allied side of the world, which endeavored to draw up the terms of the various peace treaties in a democratic manner. We were successful in that. . . . But to me it would be a most serious affair if we now fail to go through with the treaties [it].
>
> We really took the leadership in this affair. Should we now [we would] back away from it[.] That to my mind would be fraught with most serious consequences. My own view, to state it very frankly, if we fail to ratify these treaties, is that the whole situation practically dissolves. That would be my own position in approaching any further conferences, because we would have again begun [. . .] what we did in 1919, 1920, and 1921. And the world would lose all confidence in our proposals and our leadership. I do not think we can afford that.
>
> I will not go into the various aspects of the treaties other than to say that I should imagine it would be impossible, or has been impossible in history, ever to draw up a treaty that met the approval of all parties concerned. Now, the longer these treaties remain unratified the greater and greater will be the difficulty in securing ratification.[2]

In response to a question concerning the effect of the delay in the ratification of these treaties upon the neg tiations for the Austrian before, I have decided fears that the situation would so deteriorate that I do now quite how we would go about the further negotiations. It is already dingly difficult, as everyone knows. Now all we would do is make it more ult, if not impossible. That is my view.

e integrity of the position of the United States, its consistency, are tre- lous factors in this matter, and the minute we appear to be wobbling this or that way, and not going through with something that was adopted under ery conditions that we were aggressively pressing for, would be a very us blow to us.[1]

hen the Secretary was asked whether an indefinite or serious delay e ratification of the treaties would lend color to the uncertainty h might exist as to the attitude of the United States and to its ngness to go through with our commitments and whether such y would not play into the hands of those who are seeking to add to confusion for their own political purposes, the Secretary of State that it was his opinion that such was considered a correct state- t, adding that—

hink in a great many cases it would be the confirmation of a belief that we ot be depended upon as a consistent factor in international relations and d cause a deep resentment because of [. . .] our insistence upon certain lations and certain arrangements. It would be very much opposed by those le who suffered a great deal [when] should we insist upon certain things and back away from [the] our commitment.[2]

SIDENT TRUMAN URGES RATIFICATION AS VITAL TO OUR FOREIGN POLICY

hen Secretary Marshall appeared before the committee on May 6, e conclusion of the hearings he read into the record a letter from ident Truman[3] expressing the view that it is vital to our foreign cy that the peace treaties be promptly ratified. For the informa- of the Senate the letter is reproduced in full below.

THE WHITE HOUSE,
Washington, May 5, 1947.

GEORGE C. MARSHALL,
Secretary of State, Washington, D. C.

DEAR MR. SECRETARY: Since your return you and I have carefully can- d the existing situation regarding the ratification of the Italian and the three ite treaties now pending before the Senate. I understand that you will ar soon with Mr. Byrnes before the Senate Committee on Foreign Relations nclude the hearings on these treaties. You are authorized to say that I r wholeheartedly in the views which you and Mr. Byrnes will express to ffect that it is in our opinion vital to our foreign policy that these treaties be ptly ratified.

nderstand that it has been urged that the inability to agree on an Austrian y at Moscow has made the ratification of these treaties inadvisable at this and that their provisions conflict with the views which I stated to the joint n of Congress on March 12.[4] I do not share this view. These treaties are sult of months of effort by outstanding leaders of both parties in this Govern- and of other governments to work out a common peace in this important

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earings, p. 174.

oid., p. 179.

oid., pp. 174–175.

wise. It is more than ever important that the Government of the United States should appear to the world as a strong and consistent force in international relations. Treaties which have been worked out with the approval of so large a proportion of all the nations convened at the Paris Conference represent the considered judgment of the international community. Moreover, many of the most difficult problems were resolved as the result of American initiative. It would be a great misfortune and a heavy blow to our country's leadership in world affairs should we now unilaterally withhold approval of these treaties.

Sincerely yours,

Harry S. Truman.

ACTION TAKEN BY THE FOREIGN RELATIONS COMMITTEE

On May 9 the Foreign Relations Committee met in executive session to consider the testimony submitted at the hearings by the various witnesses. Since no objection except one had been raised with respect to the Hungarian, Rumanian, and Bulgarian treaties, the discussion centered mainly about the Italian treaty. After a careful consideration of the issues involved, the committee unanimously agreed to report the four treaties to the Senate with the recommendation that the Senate's approval to ratification be given. The final vote was 13 to 0.

SUMMARY OF REASONS—RATIFICATION SEEMS DESIRABLE

In view of the many considerations outlined above the committee agreed that the wisest course of action is to proceed with ratification at an early date. The main reasons for the position of the committee may be summarized as follows:

1. The treaties appear to be the best that could be secured under the circumstances.
2. There seems to be little reason to believe that better terms could be secured with respect to any of the treaties if attempts were made to reopen negotiations now or at any later date.
3. The uncertainty that would come from our refusal to ratify would only add to the many difficulties and the unsettled conditions already existing in Europe.
4. If the treaties are suspended or rejected, it would seriously endanger the prospects for completing a satisfactory treaty with Austria and Germany.
5. Since the United States took the leadership in framing the treaties other nations would have reason to question our integrity and to criticize our unwillingness to go through with our commitments if we failed to ratify.
6. Bilateral negotiations between the United States and the ex-satellite states would fail to bring about the results that either the United States or these other nations desire.
7. The many advantages that would come from putting an end to the state of war that exists, such as the removal of occupation troops, the termination of the armistice regimes in the ex-satellite states, the resumption of normal peacetime relations, and the later admission of these states into the United Nations,

failure to ratify.

8. Approval of the treaties would constitute an important step forward in the development of the total peace settlement which is so necessary if a regime of law, order and stability is to prevail in the world.

Understandings Regarding Trieste

4. MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE UNITED STATES, ITALY, AND THE UNITED KINGDOM, MAY 9, 1952[1]

1. In accordance with the decision announced on the 27th March, 1952,[2] and with a view to arriving at arrangements for a closer collaboration among themselves and with the local authorities in the administration of Zone A, the Governments of Italy, the United Kingdom and the United States have approved the following conclusions and understandings reached by their representatives.

2. The three Governments have started from the premises, which they all share, that such arrangements should be of a nature so as not to prejudice the ultimate solution of the future of the Territory as a whole and so as to continue to ensure to all inhabitants of the Zone the enjoyment of human rights and fundamental freedoms without distinction as to race, sex, language or religion.

3. Since the Governments of the United Kingdom and the United States retain the responsibilities with regard to the administration of Zone A devolving on them under the Treaty of Peace with Italy,[3] particularly Annex VII thereof, the Commander of the United Kingdom and United States troops retains all powers of government in the Zone.

4. Taking the foregoing into account, the three Governments have approved the following arrangements.

5. An Italian Political Adviser to the Zone Commander will be appointed by the Italian Government to represent it in all matters

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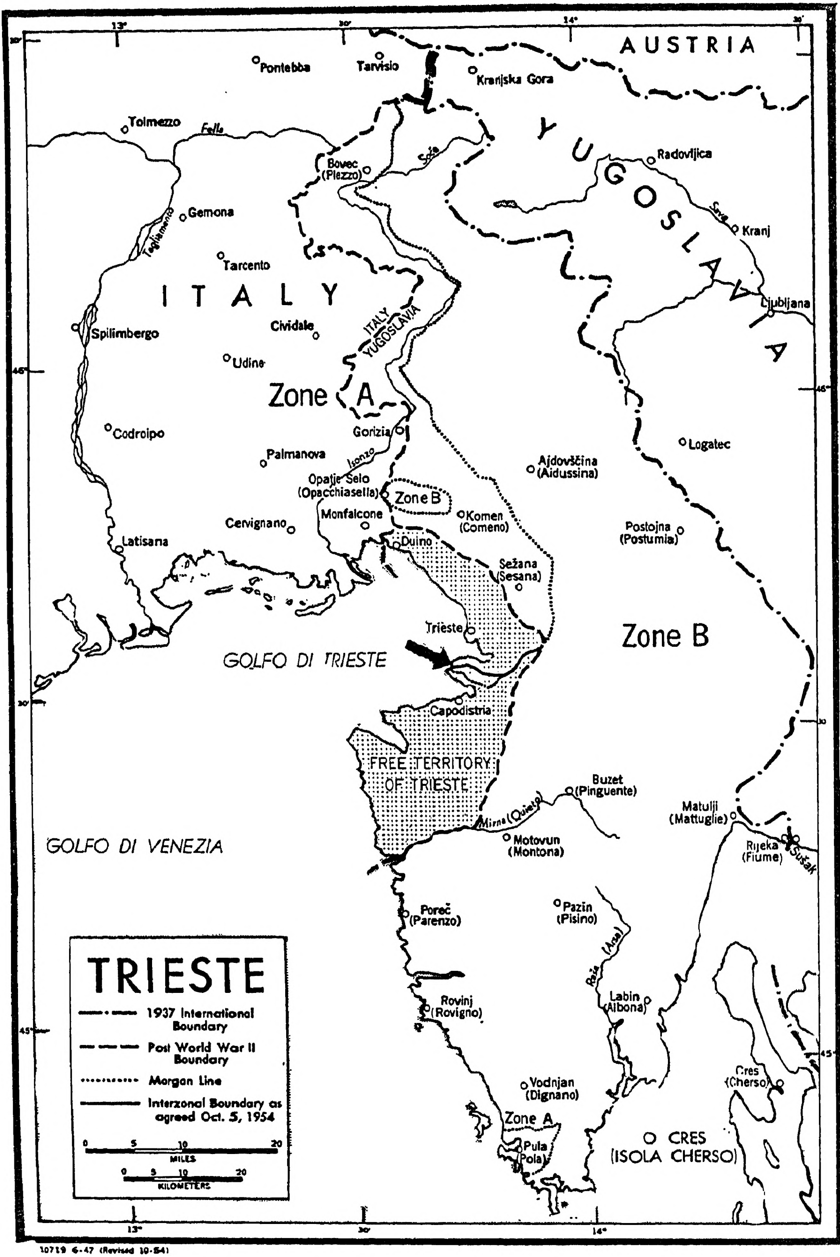
[1] TIAS 2564; 3 UST, pt. 3, p. 4189. In releasing the text of the Memorandum of Understanding, the three Governments issued a communiqué stating, *inter alia:*

"Without prejudice to a final solution of the problem of the future of the Fre Territory as a whole, this understanding is designed to give greater practica recognition to the predominantly Italian character of the Zone." (Department o State *Bulletin*, May 19, 1952, p. 779)

[2] *Ibid.*, Apr. 14, 1952, p. 585, footnote 1.

[3] TIAS 1648; 61 Stat., pt. 2, p. 1245.


TRIESTE
1937 International Boundary
Post World War II Boundary
Morgan Line
Interzonal Boundary as agreed Oct. 5, 1954
0 5 10 20
MILES
0 5 10 20
KILOMETERS
13°
30'
14°
30'
45°
45°
AUSTRIA
YUGOSLAVIA
ITALY
ITALY
YUGOSLAVIA
Zone A
Zone B
Zone B
Zone A
FREE TERRITORY OF TRIESTE
GOLFO DI TRIESTE
GOLFO DI VENEZIA
Pontebba
Tarvisio
Kranjska Gora
Tolmezzo
Fella
Bovec (Plezzo)
Soča
Radovljica
Sava
Kranj
Gemona
Tagliamento
Tarcento
Ljubljana
Spilimbergo
Cividale
Udine
Codroipo
Gorizia
Logatec
Palmanova
Isonzo
Ajdovščina (Aidussina)
Opatje Selo (Opacchiasella)
Monfalcone
Komen (Comeno)
Cervignano
Postojna (Postumia)
Latisana
Duino
Sežana (Sesana)
Trieste
Capodistria
Buzet (Pinguente)
Mirna (Quieto)
Matulji (Mattuglie)
Motovun (Montona)
Rijeka (Fiume)
Sušak
Poreč (Parenzo)
Pazin (Pisino)
Raša (Arsa)
Rovinj (Rovigno)
Labin (Albona)
Vodnjan (Dignano)
Cres (Cherso)
Pula (Pola)
CRES (ISOLA CHERSO)

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will have a status similar to that of the United Kingdom and Unite
States Political Advisers.

6. A Senior Director of Administration will be proposed by the Italia Government and will be appointed by the Zone Commander. Th Senior Director of Administration will be responsible to the Zon Commander and under the latter's direction will administer, by mean of two directorates, the functions of civil government indicated in th following sub-paragraphs. He will have under his administration:

(a) a Directorate of Interior consisting of the following branches Local Government (Zone Presidency and Communes), Department of Labour, Department of Social Assistance, Publi Health Office, Education Office, Census and Survey Office Fire Service.

(b) a Directorate of Finance and Economics consisting of th following branches: Department of Commerce, Departmen of Production, Department of Finance (including Custom and Finance Guards), Department of Transportation, Department of Public Works and Utilities (with the exception o construction and housing for the United Kingdom and Unite States troops), Office of Agriculture and Fisheries, Loan Section.

7. Italians in a number adequate to ensure efficient administration o the directorates, departments and offices mentioned in paragraph above will be proposed by the Italian Government and will in th same manner be appointed by the Zone Commander to staff thos directorates, departments and offices. They shall be responsible t the Zone Commander through the Senior Director of Administration Persons appointed in accordance with the provisions of this paragrap and of paragraph 6 above may be replaced by the Zone Commande who shall ask the Italian Government to propose their successors The Italian Government retains the right to recall persons propose by it, on due notification to the Zone Commander. Employees wh have been recruited locally and who are now exercising civil function in the Military Government will be retained to the maximum practicable extent; any dismissal shall be effected with the prior approva of the Zone Commander.

8. While it is intended initially to retain the present organisation o the directorates administered by the Senior Director of Administration, he may recommend modifications thereof to the Zone Commander and effect them with the latter's approval.

9. The three Governments have noted the intimate connexions tha exist between the economy of the Zone and the Italian economy as whole and the essential contribution that is made to the well-being o the Zone by the Italian Government. The three Governments therefore reaffirm that all the existing Economic and Financial Agreement between them concerning Zone A, and the understandings reache

over international trade shall continue to be administered by United Kingdom and United States officers appointed by and responsible to the Zone Commander.

10. The Governments of the United Kingdom and the United States will instruct the Zone Commander concerning the application of the present understandings and the necessary readjustments to be made in the present organisation of the Military Government, in order to carry out the provisions of this Memorandum of Understanding as soon as practicable with a view to substantial completion by the 15th July, 1952.

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5. STATEMENT RELEASED TO THE PRESS BY THE GOVERNMENTS OF THE UNITED STATES AND THE UNITED KINGDOM, OCTOBER 8, 1953 [2]

The Governments of the U.S. and U.K. have viewed with great concern the recent deterioration in the relations between Italy and Yugoslavia which has resulted from the dispute over the future of the Free Territory of Trieste.

Since the conclusion of the Second World War, the two Governments have jointly exercised the administration of Zone A of the Territory under the terms of the Italian Peace Treaty.[3] Similarly, the Yugoslav Government has continued to be responsible for the administration of Zone B.[4] These responsibilities were to be purely temporary and it was never envisaged that they should become permanent. For reasons that are well known, it proved impossible to reach agreement with the other signatories of the Peace Treaty for setting up the permanent regime for the Free Territory provided for in the Treaty.

The Governments of the U.S. and U.K., who were thus faced with a situation not contemplated in the Treaty, subsequently employed their good offices on frequent occasions in the hope of promoting a settlement by conciliation between Italy and Yugoslavia. Unfortunately it was not possible to find a solution acceptable to both sides. Moreover the recent proposals put forward by Italy and Yugoslavia have been reciprocally rejected.

In these circumstances, the two Governments see no alternative but to bring the present unsatisfactory situation to an end. They are no longer prepared to maintain responsibility for the adminis-

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[1] See TIAS 1845 (62 Stat., pt. 3, p. 3026), TIAS 1978 (63 Stat., pt. 3, p. 2709), TIAS 2035 (64 Stat., pt. 3, p. B107), TIAS 2261 (2 UST, pt. 1, p. 1156), and TIAS 2620 (3 UST, pt. 4, p. 4657).

[2] Department of State *Bulletin*, Oct. 19, 1953, p. 529.

[3] TIAS 1648; 61 Stat., pt. 2, p. 1245.

[4] See the agreement of June 9, 1945, regarding the provisional administration of Venezia Giulia; *A Decade of American Foreign Policy, pp.* 478–479.

Allied Military Government, to withdraw their troops, and having in mind the predominantly Italian character of Zone A to relinquish the administration of that Zone to the Italian Government. The two Governments expect that the measures being taken will lead to a final peaceful solution.

It is the firm belief of the two Governments that this step will contribute to stabilization of a situation which has disturbed Italo-Yugoslav relations during recent years. They trust that it will provide the basis for friendly and fruitful cooperation between Italy and Yugoslavia, which is as important to the security of Western Europe as it is to the interest of the two countries concerned.

The withdrawal of troops and the simultaneous transfer of administrative authority will take place at the earliest practicable date, which will be announced in due course.

6. MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENTS OF THE UNITED STATES, ITALY, THE UNITED KINGDOM, AND YUGOSLAVIA, OCTOBER 5, 1954 [1]

1. Owing to the fact that it has proved impossible to put into effect the provisions of the Italian Peace Treaty relating to the Free Territory of Trieste, the Governments of the United Kingdom, the United States and Yugoslavia have maintained since the end of the war military occupation and government in Zones A and B of the Territory.[2] When the Treaty was signed, it was never intended that these responsibilities should be other than temporary and the Governments of Italy, the United Kingdom, the United States and Yugoslavia, as the countries principally concerned, have recently consulted together in order to consider how best to bring the present unsatisfactory situation to an end. As a result they have agreed upon the following practical arrangements.

2. As soon as this Memorandum of Understanding has been initialled and the boundary adjustments provided by it have been carried out, the Governments of the United Kingdom, the United States and Yugoslavia will terminate military government in Zones A and B of the Territory. The Governments of the United Kingdom and the United States will withdraw their military forces from the area north of the new boundary and will relinquish the administration of that area to the Italian Government. The Italian and Yugoslav Governments will forthwith extend their civil administration over the area for which they will have responsibility.

3. The boundary adjustments referred to in paragraph 2 will be carried out in accordance with the map at Annex I.[3] A preliminary

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[1] Department of State *Bulletin*, Oct. 18, 1954, pp. 556–558.

[2] See articles 4, 5, 21, and 22 and annexes VII–X of the Treaty of Peace with Italy; TIAS 1648 (61 Stat., pt. 2, p. 1245).

[3] Not printed. The map reproduced here (p. 420) was especially prepared for the Department of State *Bulletin*.

demarcation will be carried out by representatives of Allied Military Government and Yugoslav Military Government as soon as this Memorandum of Understanding has been initialled and in any event within three weeks from the date of initialling. The Italian and Yugoslav Governments will immediately appoint a Boundary Commission to effect a more precise demarcation of the boundary in accordance with the map at Annex I.

4. The Italian and Yugoslav Governments agree to enforce the Special Statute contained in Annex II.[1]

5. The Italian Government undertakes to maintain the Free Port at Trieste in general accordance with the provisions of Articles 1–20 of Annex VIII of the Italian Peace Treaty.

6. The Italian and Yugoslav Governments agree that they will not undertake any legal or administrative action to prosecute or discriminate against the person or property of any resident of the areas coming under their civil administration in accordance with this Memorandum of Understanding for past political activities in connexion with the solution of the problem of the Free Territory of Trieste.

7. The Italian and Yugoslav Governments agree to enter into negotiations within a period of two months from the date of initialling of this Memorandum of Understanding with a view to concluding promptly an agreement regulating local border traffic, including facilities for the movement of the residents of border areas by land and by sea over the boundary for normal commercial and other activities and for transport and communications. This agreement shall cover Trieste and the area bordering it. Pending the conclusion of such agreement, the competent authorities will take, each within their respective competence, appropriate measures in order to facilitate local border traffic.

8. For a period of one year from the date of initialling of this Memorandum of Understanding persons formerly resident ("pertinenti"–"zavičajni") in the areas coming under the civil administration either of Italy or of Yugoslavia shall be free to return immediately thereto. Any persons so returning, as also any such who have already returned, shall enjoy the same rights as the other residents of these areas. Their properties and assets shall be at their disposal, in accordance with existing law, unless disposed of by them in the meantime. For a period of two years from the date of initialling of this Memorandum of Understanding, persons formerly resident in either of these areas and who do not intend returning thereto, and persons presently resident in either area who decide within one year from the date of initialling of this Memorandum of

from the date of initialling of this Memorandum of Understanding will have the sums realised from the sale of such property deposited in special accounts with the National Banks of Italy or Yugoslavia Any balance between these two accounts will be liquidated by the two Governments at the end of the two year period. Without prejudice to the immediate implementation of the provisions of this paragraph the Italian and Yugoslav Governments undertake to conclude a detailed agreement within six months of the date of nitialling of this Memorandum of Understanding.

9. This Memorandum of Understanding will be communicated to the Security Council of the United Nations.[1]

. . . .

Settlement With Japan

7. TREATY OF PEACE, SEPTEMBER 8, 1951 [2]

Whereas the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals cooperate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation and in public and private trade and commerce to conform to internationally accepted fair practices;

Whereas the Allied Powers welcome the intentions of Japan set out n the foregoing paragraph;

The Allied Powers and Japan have therefore determined to conclude the present Treaty of Peace, and have accordingly appointed the powers, found in good and due form, have agreed on the following provisions:

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[1] Transmitted to the President of the Security Council on Oct. 5, and circulated as U. N. doc. S/3301.

[2] TIAS 2490; 3 UST, pt. 3, p. 3169. Ratification advised by the Senate, Mar 20, 1952, subject to a declaration (see *infra*); ratified by the President, Apr. 15 1952; entered into force, Apr. 28, 1952.

CHAPTER I

PEACE

Article 1

(a) The state of war between Japan and each of the Allied Powers is terminated as from the date on which the present Treaty comes into force between Japan and the Allied Power concerned as provided for in Article 23.

(b) The Allied Powers recognize the full sovereignty of the Japanese people over Japan and its territorial waters.

CHAPTER II

TERRITORY

Article 2

(a) Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

(b) Japan renounces all right, title and claim to Formosa and the Pescadores.

(c) Japan renounces all right, title and claim to the Kurile Islands, and to that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of September 5, 1905.[1]

(d) Japan renounces all right, title and claim in connection with the League of Nations Mandate System, and accepts the action of the United Nations Security Council of April 2, 1947, extending the trusteeship system to the Pacific Islands formerly under mandate to Japan.[2]

(e) Japan renounces all claim to any right or title to or interest in connection with any part of the Antarctic area, whether deriving from the activities of Japanese nationals or otherwise.

(f) Japan renounces all right, title and claim to the Spratly Islands and to the Paracel Islands.

Article 3

Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29° north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario ing the making of such a proposal and affirmative action thereon, Jnited States will have the right to exercise all and any powers of inistration, legislation and jurisdiction over the territory and intants of these islands, including their territorial waters.

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[1] *Foreign Relations of the United States, 1905*, pp. 824–828.

[2] TIAS 1665; 61 Stat., pt. 3, p. 3301.

Article 4

) Subject to the provisions of paragraph (b) of this Article, the osition of property of Japan and of its nationals in the areas re- to in Article 2, and their claims, including debts, against the orities presently administering such areas and the residents uding juridical persons) thereof, and the disposition in Japan of erty of such authorities and residents, and of claims, including s, of such authorities and residents against Japan and its nationals, be the subject of special arrangements between Japan and such orities. The property of any of the Allied Powers or its nationals e areas referred to in Article 2 shall, insofar as this has not already done, be returned by the administering authority in the condition hich it now exists. (The term nationals whenever used in the ent Treaty includes juridical persons.)

) Japan recognizes the validity of dispositions of property of n and Japanese nationals made by or pursuant to directives of the ed States Military Government in any of the areas referred to in cles 2 and 3.

) Japanese owned submarine cables connecting Japan with terri- removed from Japanese control pursuant to the present Treaty be equally divided, Japan retaining the Japanese terminal and ning half of the cable, and the detached territory the remainder e cable and connecting terminal facilities.

CHAPTER III

SECURITY

Article 5

) Japan accepts the obligations set forth in Article 2 of the ter of the United Nations, and in particular the obligations

(i) to settle its international disputes by peaceful means in such anner that international peace and security, and justice, are not ngered;

(ii) to refrain in its international relations from the threat or use

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he United States was designated as the administering authority of all trust ories formerly administered by Japan under mandate of the League of ns by a resolution adopted by the U.N. Security Council, Apr. 2, 1947 *ecade of American Foreign Policy*, pp. 1031–1035). All of the territories ed to here in article 3 have remained under U.S. jurisdiction and outside e U.N. trusteeship system with a view to their eventual return to Japanese eignty. The Amami Oshima group of the Ryukyu Islands reverted to nese sovereignty by the terms of a United States–Japanese agreement signed 24, 1953 (TIAS 2895; 4 UST, pt. 2, p. 2912). See *infra*, p. 2430.

any State or in any other manner inconsistent with the Purposes of the United Nations;

(iii) to give the United Nations every assistance in any action it takes in accordance with the Charter and to refrain from giving assistance to any State against which the United Nations may take preventive or enforcement action.

(b) The Allied Powers confirm that they will be guided by the principles of Article 2 of the Charter of the United Nations in their relations with Japan.

(c) The Allied Powers for their part recognize that Japan as a sovereign nation possesses the inherent right of individual or collective self-defense referred to in Article 51 of the Charter of the United Nations and that Japan may voluntarily enter into collective security arrangements.

Article 6

(a) All occupation forces of the Allied Powers shall be withdrawn from Japan as soon as possible after the coming into force of the present Treaty, and in any case not later than 90 days thereafter. Nothing in this provision shall, however, prevent the stationing or retention of foreign armed forces in Japanese territory under or in consequence of any bilateral or multilateral agreements which have been or may be made between one or more of the Allied Powers, on the one hand, and Japan on the other.[1]

(b) The provisions of Article 9 of the Potsdam Proclamation of July 26, 1945,[2] dealing with the return of Japanese military forces to their homes, to the extent not already completed, will be carried out.

(c) All Japanese property for which compensation has not already been paid, which was supplied for the use of the occupation forces and which remains in the possession of those forces at the time of the coming into force of the present Treaty, shall be returned to the Japanese Government within the same 90 days unless other arrangements are made by mutual agreement.

CHAPTER IV

POLITICAL AND ECONOMIC CLAUSES

Article 7

(a) Each of the Allied Powers, within one year after the present Treaty has come into force between it and Japan, will notify Japan which of its prewar bilateral treaties or conventions with Japan it wishes to continue in force or revive, and any treaties or conventions so notified shall continue in force or be revived subject only to such ent Treaty.[1] The treaties and conventions so notified shall be idered as having been continued in force or revived three months the date of notification and shall be registered with the Secretariat e United Nations. All such treaties and conventions as to which n is not so notified shall be regarded as abrogated.

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[1] See the U.S.–Japanese Security Treaty of Sept. 8, 1951, and the attendant Administrative Agreement of Feb. 28, 1952 (*infra*, pp. 885–886 and 2406–2423) and the agreement respecting the status of U. N. forces in Japan, signed at Tokyo, Feb. 19, 1954 (TIAS 2995; 5 UST, pt. 2, p. 1123).

[2] *A Decade of American Foreign Policy*, pp. 49–50.

) Any notification made under paragraph (a) of this Article may ot from the operation or revival of a treaty or convention any terri- for the international relations of which the notifying Power is onsible, until three months after the date on which notice is given ipan that such exception shall cease to apply.

Article 8

) Japan will recognize the full force of all treaties now or hereafter luded by the Allied Powers for terminating the state of war ini- d on September 1, 1939, as well as any other arrangements by the d Powers for or in connection with the restoration of peace. n also accepts the arrangements made for terminating the former ue of Nations and Permanent Court of International Justice.

) Japan renounces all such rights and interests as it may derive being a signatory power of the Conventions of St. Germain-en- of September 10, 1919,[2] and the Straits Agreements of Montreux uly 20, 1936,[3] and from Article 16 of the Treaty of Peace with key signed at Lausanne on July 24, 1923.[4]

) Japan renounces all rights, title and interests acquired under, is discharged from all obligations resulting from, the Agreement een Germany and the Creditor Powers of January 20, 1930, and nnexes, including the Trust Agreement, dated May 17, 1930;[5] the vention of January 20, 1930, respecting the Bank for Interna- l Settlements;[6] and the Statutes of the Bank for International ements.[7] Japan will notify to the Ministry of Foreign Affairs in s within six months of the first coming into force of the present ty its renunciation of the rights, title and interests referred to in paragraph.

Article 9

pan will enter promptly into negotiations with the Allied Powers esiring for the conclusion of bilateral and multilateral agreements iding for the regulation or limitation of fishing and the conserva- and development of fisheries on the high seas.[8]

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ee the United States note to Japan, Apr. 22, 1953; Department of State *tin*, May 18, 1953, pp. 721–722.

reaty Series 779 (46 Stat. 2199 ff.) and Treaty Series 877 (49 Stat. 3027 ff.).

eague of Nations Treaty Series, vol. 173, pp. 213 ff.

bid., vol. 28, pp. 11–113.

ritish and Foreign State Papers, vol. 132, pp. 411 ff.

bid., pp. 525–528.

bid., pp. 528–538.

ee the International Convention for the High Seas Fisheries of the North ic Ocean, signed by the United States, Canada, and Japan, May 9, 1952; S 2786 (4 UST 380).

Japan renounces all special rights and interests in China, including all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901,[1] and all annexes, notes and documents supplementary thereto, and agrees to the abrogation in respect to Japan of the said protocol, annexes, notes and documents.

Article 11

Japan accepts the judgments of the International Military Tribunal for the Far East[2] and of other Allied War Crimes Courts both within and outside Japan, and will carry out the sentences imposed thereby upon Japanese nationals imprisoned in Japan. The power to grant clemency, to reduce sentences and to parole with respect to such prisoners may not be exercised except on the decision of the Government or Governments which imposed the sentence in each instance, and on the recommendation of Japan. In the case of persons sentenced by the International Military Tribunal for the Far East, such power may not be exercised except on the decision of a majority of the Governments represented on the Tribunal, and on the recommendation of Japan.

Article 12

(a) Japan declares its readiness promptly to enter into negotiations for the conclusion with each of the Allied Powers of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis.[3]

(b) Pending the conclusion of the relevant treaty or agreement, Japan will, during a period of four years from the first coming into force of the present Treaty

(1) accord to each of the Allied Powers, its nationals, products and vessels

(i) most-favored-nation treatment with respect to customs duties, charges, restrictions and other regulations on or in connection with the importation and exportation of goods;

(ii) national treatment with respect to shipping, navigation and imported goods, and with respect to natural and juridical persons and their interests—such treatment to include all matters pertaining to the levying and collection of taxes, access to the courts, the making and performance of contracts, rights to property (tangible and tuted under Japanese law, and generally the conduct of al kinds of business and professional activities;

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[1] Treaty Series 397. (Not reprinted in the Statutes at Large.)

[2] See *International Military Tribunal for the Far East Established at Tokyo, January 19, 1946* (Department of State publication 2765; 1947, and TIAS 1589) *Trial of Japanese War Criminals: Documents* (Department of State publication 2613; 1946).

[3] See Treaty of Friendship, Commerce, and Navigation, Protocol and Exchange of Notes of Aug. 29, 1953, United States and Japan, signed Apr. 2, 1953; TIAS 2863 (4 UST 2863).

(2) ensure that external purchases and sales of Japanese state trading enterprises shall be based solely on commercial considerations

(c) In respect to any matter, however, Japan shall be obliged to accord to an Allied Power national treatment, or most-favored-nation treatment, only to the extent that the Allied Power concerned accords Japan national treatment or most-favored-nation treatment as the case may be, in respect of the same matter. The reciprocity envisaged in the foregoing sentence shall be determined, in the case of products, vessels and juridical entities of, and persons domiciled in any non-metropolitan territory of an Allied Power, and in the case of juridical entities of, and persons domiciled in, any state or province of an Allied Power having a federal government, by reference to the treatment accorded to Japan in such territory, state or province

(d) In the application of this Article, a discriminatory measure shall not be considered to derogate from the grant of national or most-favored-nation treatment, as the case may be, if such measure is based on an exception customarily provided for in the commercial treaties of the party applying it, or on the need to safeguard that party's external financial position or balance of payments (except in respect to shipping and navigation), or on the need to maintain its essential security interests, and provided such measure is proportionate to the circumstances and not applied in an arbitrary or unreasonable manner.

(e) Japan's obligations under this Article shall not be affected by the exercise of any Allied rights under Article 14 of the present Treaty nor shall the provisions of this Article be understood as limiting the undertakings assumed by Japan by virtue of Article 15 of the Treaty

Article 13

(a) Japan will enter into negotiations with any of the Allied Powers promptly upon the request of such Power or Powers, for the conclusion of bilateral or multilateral agreements relating to international civi air transport.

(b) Pending the conclusion of such agreement or agreements, Japan will, during a period of four years from the first coming into force o the present Treaty, extend to such Power treatment not less favorable with respect to air-traffic rights and privileges than those exercised by any such Powers at the date of such coming into force, and wil accord complete equality of opportunity in respect to the operation and development of air services.

(c) Pending its becoming a party to the Convention on International Civil Aviation [1] in accordance with Article 93 thereof, Japan will give effect to the provisions of that Convention applicable to the international navigation of aircraft, and will give effect to the stand n accordance with the terms of the Convention.

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[1] Convention of Dec. 7, 1944 (TIAS 1591; 61 Stat., pt. 2, p. 1180). (Excerpts in *A Decade of American Foreign Policy*, pp. 311–318.)

CHAPTER V

CLAIMS AND PROPERTY

Article 14

(a) It is recognized that Japan should pay reparations to the Allied Powers for the damage and suffering caused by it during the war. Nevertheless it is also recognized that the resources of Japan are not presently sufficient, if it is to maintain a viable economy, to make complete reparation for all such damage and suffering and at the same time meet its other obligations.

Therefore,

1. Japan will promptly enter into negotiations with Allied Powers so desiring, whose present territories were occupied by Japanese forces and damaged by Japan, with a view to assisting to compensate those countries for the cost of repairing the damage done, by making available the services of the Japanese people in production, salvaging and other work for the Allied Powers in question. Such arrangements shall avoid the imposition of additional liabilities on other Allied Powers, and, where the manufacturing of raw materials is called for, they shall be supplied by the Allied Powers in question, so as not to throw any foreign exchange burden upon Japan.

2. (I) Subject to the provisions of sub-paragraph (II) below, each of the Allied Powers shall have the right to seize, retain, liquidate or otherwise dispose of all property, rights and interests of

(a) Japan and Japanese nationals,
(b) persons acting for or on behalf of Japan or Japanese nationals, and
(c) entities owned or controlled by Japan or Japanese nationals,

which on the first coming into force of the present Treaty were subject to its jurisdiction. The property, rights and interests specified in this sub-paragraph shall include those now blocked, vested or in the possession or under the control of enemy property authorities of Allied Powers, which belonged to, or were held or managed on behalf of, any of the persons or entities mentioned in (a), (b) or (c) above at the time such assets came under the controls of such authorities.

(II) The following shall be excepted from the right specified in sub-paragraph (I) above:

(i) property of Japanese natural persons who during the wa resided with the permission of the Government concerned in the territory of one of the Allied Powers, other tha territory occupied by Japan, except property subjected t restrictions during the war and not released from suc restrictions as of the date of the first coming into forc of the present Treat :

ernment of Japan and used for diplomatic or consula purposes, and all personal furniture and furnishings an other private property not of an investment nature whic was normally necessary for the carrying out of diplomati and consular functions, owned by Japanese diplomatic an consular personnel;

(iii) property belonging to religious bodies or private charitabl institutions and used exclusively for religious or charitabl purposes;

(iv) property, rights and interests which have come within it jurisdiction in consequence of the resumption of trade an financial relations subsequent to September 2, 1945 between the country concerned and Japan, except suc as have resulted from transactions contrary to the law of the Allied Power concerned;

(v) obligations of Japan or Japanese nationals, any right, titl or interest in tangible property located in Japan, interest in enterprises organized under the laws of Japan, or an paper evidence thereof; provided that this exception shal only apply to obligations of Japan and its national expressed in Japanese currency.

(III) Property referred to in exceptions (i) through (v) abov shall be returned subject to reasonable expenses for its preservatio and administration. If any such property has been liquidated th proceeds shall be returned instead.

(IV) The right to seize, retain, liquidate or otherwise dispose o property as provided in sub-paragraph (I) above shall be exercised i accordance with the laws of the Allied Power concerned, and th owner shall have only such rights as may be given him by those laws

(V) The Allied Powers agree to deal with Japanese trademark and literary and artistic property rights on a basis as favorable t Japan as circumstances ruling in each country will permit.

(b) Except as otherwise provided in the present Treaty, the Allie Powers waive all reparations claims of the Allied Powers, other claim of the Allied Powers and their nationals arising out of any action taken by Japan and its nationals in the course of the prosecution o the war, and claims of the Allied Powers for direct military costs o occupation.

Article 15

(a) Upon application made within nine months of the coming int force of the present Treaty between Japan and the Allied Power concerned, Japan will, within six months of the date of such application return the property, tangible and intangible, and all rights or interest of any kind in Japan of each Allied Power and its nationals which wa within Japan at any time between December 7, 1941, and Septembe 2, 1945, unless the owner has freely disposed thereof without dures or fraud. Such property shall be returned free of all encumbrance and without any charges for its return. Property whose return is not applied for by or on behalf of the owner or by his Government within the prescribed period may be disposed of by the Japanese Government as it may determine. In cases where such property was within Japan on December 7, 1941, and cannot be returned or has suffered injury or damage as a result of the war, compensation will be made on terms not less favorable than the terms provided in the draft Allied Powers Property Compensation Law approved by the Japanese Cabinet on July 13, 1951.[1]

(b) With respect to industrial property rights impaired during the war, Japan will continue to accord to the Allied Powers and their nationals benefits no less than those heretofore accorded by Cabinet Orders No. 309 effective September 1, 1949, No. 12 effective January 28, 1950, and No. 9 effective February 1, 1950,[2] all as now amended, provided such nationals have applied for such benefits within the time limits prescribed therein.

(c) (i) Japan acknowledges that the literary and artistic property rights which existed in Japan on December 6, 1941, in respect to the published and unpublished works of the Allied Powers and their nationals have continued in force since that date, and recognizes those rights which have arisen, or but for the war would have arisen, in Japan since that date, by the operation of any conventions and agreements to which Japan was a party on that date, irrespective of whether or not such conventions or agreements were abrogated or suspended upon or since the outbreak of war by the domestic law of Japan or of the Allied Power concerned.

(ii) Without the need for application by the proprietor of the right and without the payment of any fee or compliance with any other formality, the period from December 7, 1941, until the coming into force of the present Treaty between Japan and the Allied Power concerned shall be excluded from the running of the normal term of such rights; and such period, with an additional period of six months, shall be excluded from the time within which a literary work must be translated into Japanese in order to obtain translating rights in Japan.

Article 16

As an expression of its desire to indemnify those members of the armed forces of the Allied Powers who suffered undue hardships while prisoners of war of Japan, Japan will transfer its assets and those of its nationals in countries which were neutral during the war, or which were at war with any of the Allied Powers, or, at its option, the equivalent of such assets, to the International Committee of the Red Cross which shall liquidate such assets and distribute the resultant fund to appropriate national agencies, for the benefit of former prisoners of

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[1] Text in the Department of State *Bulletin*, Sept. 10, 1951, pp. 429–432.

[2] See the "Third Report on the Activities of the Far Eastern Commission, December 24, 1948–June 30, 1950"; *ibid.*, Aug. 21, 1950, pp. 288–293.

The categories of assets described in Article 14 (a) 2 (II) (ii) throug (v) of the present Treaty shall be excepted from transfer, as well as assets of Japanese natural persons not residents of Japan on the first coming into force of the Treaty. It is equally understood that the transfer provision of this Article has no application to the 19,770 shares in the Bank for International Settlements presently owned by Japanese financial institutions.

Article 17

(a) Upon the request of any of the Allied Powers, the Japanese Government shall review and revise in conformity with internationa law any decision or order of the Japanese Prize Courts in cases involving ownership rights of nationals of that Allied Power and shal supply copies of all documents comprising the records of these cases including the decisions taken and orders issued. In any case in which such review or revision shows that restoration is due, the provisions of Article 15 shall apply to the property concerned.

(b) The Japanese Government shall take the necessary measures to enable nationals of any of the Allied Powers at any time within one year from the coming into force of the present Treaty between Japan and the Allied Power concerned to submit to the appropriate Japanese authorities for review any judgment given by a Japanese court between December 7, 1941, and such coming into force, in any proceedings in which any such national was unable to make adequate presentation of his case either as plaintiff or defendant. The Japanese Government shall provide that, where the national has suffered injury by reason of any such judgment, he shall be restored in the position in which he was before the judgment was given or shall be afforded such relief as may be just and equitable in the circumstances.

Article 18

(a) It is recognized that the intervention of the state of war has not affected the obligation to pay pecuniary debts arising out o obligations and contracts (including those in respect of bonds) which existed and rights which were acquired before the existence of a state of war, and which are due by the Government or nationals of Japan to the Government or nationals of one of the Allied Powers, or are due by the Government or nationals of one of the Allied Powers to the Government or nationals of Japan. The intervention of a state of war shall equally not be regarded as affecting the obligation to consider on their merits claims for loss or damage to property or for personal injury or death which arose before the existence of a state of war, and which may be presented or re-presented by the Government of one of the Allied Powers to the Government of Japan, or by the Government of Japan to any of the Governments of the Allied Powers. The provisions of this paragraph are without prejudice to the rights conferred by Article 14.

(b) Japan affirms its liability for the prewar external debt Japanese State and for debts of corporate bodies subsequent clared to be liabilities of the Japanese State, and expresses its int to enter into negotiations at an early date with its creditor respect to the resumption of payments on those debts; to enc negotiations in respect to other prewar claims and obligations; facilitate the transfer of sums accordingly.

Article 19

(a) Japan waives all claims of Japan and its nationals agai Allied Powers and their nationals arising out of the war or actions taken because of the existence of a state of war, and all claims arising from the presence, operations or actions of fo authorities of any of the Allied Powers in Japanese territory p the coming into force of the present Treaty.

(b) The foregoing waiver includes any claims arising out of taken by any of the Allied Powers with respect to Japanes between September 1, 1939, and the coming into force of the Treaty, as well as any claims and debts arising in respect to Ja prisoners of war and civilian internees in the hands of the Powers, but does not include Japanese claims specifically rec in the laws of any Allied Power enacted since September 2

(c) Subject to reciprocal renunciation, the Japanese Gove also renounces all claims (including debts) against Germa German nationals on behalf of the Japanese Government and Ja nationals, including intergovernmental claims and claims for damage sustained during the war, but excepting (a) claims in of contracts entered into and rights acquired before September and (b) claims arising out of trade and financial relations b Japan and Germany after September 2, 1945. Such renun shall not prejudice actions taken in accordance with Articles 20 of the present Treaty.

(d) Japan recognizes the validity of all acts and omission during the period of occupation under or in consequence of di of the occupation authorities or authorized by Japanese law time, and will take no action subjecting Allied nationals to criminal liability arising out of such acts or omissions.

Article 20

Japan will take all necessary measures to ensure such dis of German assets in Japan as has been or may be determined b powers entitled under the Protocol of the proceedings of the Conference of 1945[1] to dispose of those assets, and pending t disposition of such assets will be responsible for the conse and administration thereof.

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[1] *A Decade of American Foreign Policy*, pp. 34–50.

Notwithstanding the provisions of Article 25 of the present Treaty China shall be entitled to the benefits of Articles 10 and 14 (a) 2 and Korea to the benefits of Articles 2, 4, 9 and 12 of the presen Treaty.

CHAPTER VI

SETTLEMENT OF DISPUTES

Article 22

If in the opinion of any Party to the present Treaty there has arisen a dispute concerning the interpretation or execution of the Treaty which is not settled by reference to a special claims tribunal or by other agreed means, the dispute shall, at the request of any party thereto, be referred for decision to the International Court of Justice Japan and those Allied Powers which are not already parties to the Statute of the International Court of Justice[1] will deposit with the Registrar of the Court, at the time of their respective ratifications of the present Treaty, and in conformity with the resolution of the United Nations Security Council, dated October 15, 1946,[2] a genera declaration accepting the jurisdiction, without special agreement of the Court generally in respect to all disputes of the character referred to in this Article.[3]

CHAPTER VII

FINAL CLAUSES

Article 23

(a) The present Treaty shall be ratified by the States which sign it including Japan, and will come into force for all the States which have then ratified it, when instruments of ratification have been deposited by Japan and by a majority, including the United States of America as the principal occupying Power, of the following States, namely Australia, Canada, Ceylon, France, Indonesia, the Kingdom of the Netherlands, New Zealand, Pakistan, the Republic of the Philippines the United Kingdom of Great Britain and Northern Ireland, and the United States of America.[4] The present Treaty shall come into force of its instrument of ratification.

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[1] *A Decade of American Foreign Policy*, pp. 140–155.

[2] U.N. doc. S/INF/2, July 18, 1949, p. 35.

[3] See the declaration of Nov. 24, 1951, by the Japanese Foreign Minister International Court of Justice *Yearbook, 1951–1952*, p. 213.

[4] The treaty entered into force Apr. 28, 1952, following the deposits of instru ments of ratification by Japan (Nov. 28, 1951), the United Kingdom (Jan. 3 1952), Mexico (Mar. 3, 1952), Argentina (Apr. 9, 1952), Australia and New Zealand (Apr. 10, 1952), Canada and Pakistan (Apr. 17, 1952), France (Apr. 18 1952), and the United States (Apr. 28, 1952).

(b) If the Treaty has not come into force within nine months after the date of the deposit of Japan's ratification, any State which has ratified it may bring the Treaty into force between itself and Japan by a notification to that effect given to the Governments of Japan and the United States of America not later than three years after the date of deposit of Japan's ratification.

Article 24

All instruments of ratification shall be deposited with the Government of the United States of America which will notify all the signatory States of each such deposit, of the date of the coming into force of the Treaty under paragraph (a) of Article 23, and of any notifications made under paragraph (b) of Article 23.

Article 25

For the purposes of the present Treaty the Allied Powers shall be the States at war with Japan, or any State which previously formed a part of the territory of a State named in Article 23, provided that in each case the State concerned has signed and ratified the Treaty.[2] Subject to the provisions of Article 21, the present Treaty shall not confer any rights, titles or benefits on any State which is not an Allied Power as herein defined; nor shall any right, title or interest of Japan be deemed to be diminished or prejudiced by any provision of the Treaty in favor of a State which is not an Allied Power as so defined.

Article 26

Japan will be prepared to conclude with any State which signed or adhered to the United Nations Declaration of January 1, 1942,[3] and which is at war with Japan, or with any State which previously formed a part of the territory of a State named in Article 23, which is not a signatory of the present Treaty, a bilateral Treaty of Peace on the same or substantially the same terms as are provided for in the

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[1] The treaty was subsequently ratified and automatically entered into force with respect to Ceylon (Apr. 28, 1952), El Salvador (May 6, 1952), Brazil (May 20, 1952), Cambodia (June 2, 1952), the Dominican Republic (June 6, 1952) Ethiopia (June 12, 1952), the Netherlands and Peru (June 17, 1952), Viet-Nam (June 18, 1952), Norway (June 19, 1952), Laos and Venezuela (June 20, 1952) Turkey (July 24, 1952), Cuba (Aug. 12, 1952), Belgium (Aug. 22, 1952), Union of South Africa (Sept. 10, 1952), Costa Rica (Sept. 17, 1952), Nicaragua (Nov. 4 1952), Uruguay (Dec. 2, 1952), Liberia and Syria (Dec. 29, 1952), Egypt (Dec 30, 1952), Paraguay (Jan. 15, 1953), Panama (Apr. 10, 1953), Haiti (May 1 1953), Greece (May 19, 1953), Honduras (Sept. 4, 1953), Lebanon (Jan. 7, 1954) Saudi Arabia (Mar. 13, 1954), Chile (Apr. 28, 1954), Guatemala (Sept. 23, 1954) Iraq (Aug. 18, 1955), Ecuador (Dec. 27, 1955), the Philippine Republic (July 23 1956), and Iran (Aug. 29, 1956).

[2] The lists of these states in either category correspond to the lists set forth in the two preceding footnotes.

[3] *A Decade of American Foreign Policy*, pp. 2–3.

three years after the first coming into force of the present T
Should Japan make a peace settlement or war claims settlemen
any State granting that State greater advantages than those pr
by the present Treaty, those same advantages shall be extenc
the parties to the present Treaty.

Article 27

The present Treaty shall be deposited in the archives of the G
ment of the United States of America which shall furnish each
tory State with a certified copy thereof.

IN FAITH WHEREOF the undersigned Plenipotentiaries
signed the present Treaty.

DONE at the city of San Francisco this eighth day of Sept
1951, in the English, French, and Spanish languages, all being e
authentic, and in the Japanese language.

[The treaty was signed by the plenipotentiaries of the foll
states in the following order: Argentina, Australia, Belgium, B
Brazil, Cambodia, Canada, Ceylon, Chile, Colombia, Costa
Cuba, the Dominican Republic, Ecuador, Egypt, El Salvador,
pia, France, Greece, Guatemala, Haiti, Honduras, Indonesia,
Iraq, Laos, Lebanon, Liberia, Luxembourg, Mexico, the Nether
New Zealand, Nicaragua, Norway, Pakistan, Panama, Par
Peru, the Philippine Republic, Saudi Arabia, Syria, Turke
Union of South Africa, the United Kingdom, the United
Uruguay, Venezuela, Viet-Nam, and Japan.]

DECLARATION OF THE UNITED STATES SENATE, MARCH 20,

As part of such advice and consent the Senate states that n
the treaty contains is deemed to diminish or prejudice, in favor
Soviet Union, the right, title, and interest of Japan, or the
Powers as defined in said treaty, in and to South Sakhalin a
adjacent islands, the Kurile Islands, the Habomai Islands, the
of Shikotan, or any other territory, rights, or interests possess
Japan on December 7, 1941, or to confer any right, title, or
therein or thereto on the Soviet Union; and also that nothing
said treaty, or the advice and consent of the Senate to the ratifi

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[1] Bilateral treaties of peace were subsequently negotiated and signed by
with the National Government of China at Taipei, Apr. 28, 1952 (United
Treaty Series, vol. 138, pp. 3 ff.), with India at Tokyo, June 9, 1952 (
registered with the U.N. Secretariat), and with Burma at Rangoon, Nov.
(not yet registered with the U.N. Secretariat). Outside the time lim
forth in this article Japan and the U.S.S.R. signed a joint "peace decla
at Moscow, Oct. 19, 1956.

[2] i. e., Apr. 28, 1955.

[3] TIAS 2490; 3 UST, pt. 3, p. 3169. The President ratified the treaty
to this declaration, which was included in the Presidential proclamation
treaty, Apr. 28, 1952; *ibid.*

provisions in favor of the Soviet Union contained in the so-called "Yalta agreement" regarding Japan of February 11, 1945.[1]

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8. JAPANESE DECLARATION OF INTENTION TO ACCEDE TO CERTAIN INTERNATIONAL INSTRUMENTS, SEPTEMBER 8, 1951 [2]

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

1. Except as otherwise provided in the said Treaty of Peace, Japan recognizes the full force of all presently effective multilateral international instruments to which Japan was a party on September 1, 1939, and declares that it will, on the first coming into force of the said Treaty, resume all its rights and obligations under those instruments. Where, however, participation in any instrument involves membership in an international organization of which Japan ceased to be a member on or after September 1, 1939, the provisions of the present paragraph shall be dependent on Japan's readmission to membership in the organization concerned.

2. It is the intention of the Japanese Government formally to accede to the following international instruments within the shortest practicable time, not to exceed one year from the first coming into force of the Treaty of Peace:

(1) Protocol opened for signature at Lake Success on December 11, 1946,[3] amending the agreements, conventions and protocols on narcotic drugs of January 23, 1912,[4] February 11, 1925,[5] February 19, 1925,[6] July 13, 1931,[7] November 27, 1931,[8] and June 26, 1936;[9]

(2) Protocol opened for signature at Paris on November 19, 1948,[10] bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs, as amended by the protocol signed at Lake Success on December 11, 1946;

(3) International Convention on the Execution of Foreign Arbitral Awards signed at Geneva on September 26, 1927;[11]

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[1] *A Decade of American Foreign Policy*, pp. 33–34.

[2] TIAS 2490; 3 UST, pt. 3, pp. 3306–3308.

[3] TIAS 1671; 61 Stat., pt. 2, pp. 2230 ff.

[4] Treaty Series 612; 38 Stat. 1912 ff.

[5] League of Nations Treaty Series, vol. 51, pp. 337–347.

[6] *Ibid.*, vol. 81, pp. 317 ff.

[7] Treaty Series 863; 48 Stat. 1543 ff.

[8] League of Nations Treaty Series, vol. 177, pp. 373 ff.

[9] *Ibid.*, vol. 198, pp. 299 ff.

[10] TIAS 2308; 2 UST 1629.

[11] League of Nations Treaty Series, vol. 92, pp. 301 ff.

(4) International Convention relating to Economic Statistics wit protocol signed at Geneva on December 14, 1928,[1] and Protoco amending the International Convention of 1928 relating t Economic Statistics signed at Paris on December 9, 1948;[2]

(5) International Convention relating to the Simplification of Customs Formalities, with protocol of signature, signed at Genev on November 3, 1923;[3]

(6) Agreement of Madrid of April 14, 1891,[4] for the Prevention o False Indications of Origin of Goods, as revised at Washingto on June 2, 1911,[5] at The Hague on November 6, 1925,[6] and a London on June 2, 1934;[7]

(7) Convention for the Unification of Certain Rules relating t International Transportation by Air, and additional protocol signed at Warsaw on October 12, 1929;[8]

(8) Convention on Safety of Life at Sea opened for signature a London on June 10, 1948;[9]

(9) Geneva conventions of August 12, 1949, for the protection o war victims.[10]

3. It is equally the intention of the Japanese Government, withi ix months of the first coming into force of the Treaty of Peace, t pply for Japan's admission to participation in (a) the Conventio n International Civil Aviation opened for signature at Chicago o ecember 7, 1944,[11] and, as soon as Japan is itself a party to tha onvention, to accept the International Air Services Transit Agreement also opened for signature at Chicago on December 7, 1944;[1 nd (b) the Convention of the World Meteorological Organizatio pened for signature at Washington on October 11, 1947.[13]

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9. JAPANESE DECLARATION REGARDING ALLIED GRAVES CEMETERIES, AND MEMORIALS IN JAPANESE TERRITORY, SEPTEMBER 8, 1951 [14]

With respect to the Treaty of Peace signed this day, the Government of Japan makes the following Declaration:

Japan will recognize any Commission, Delegation or other Or-maintain or regulate its war graves, cemeteries anc Japanese territory; will facilitate the work of such and will, in respect of the above-mentioned war gra and memorials, enter into negotiations for the conc agreements as may prove necessary with the Allied Po or with any Commission, Delegation or other Organiza by it.

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[1] League of Nations Treaty Series, vol. 110, pp. 171 ff.

[2] United Nations Treaty Series, vol. 20, pp. 229 ff.

[3] League of Nations Treaty Series, vol. 30, pp. 372 ff.

[4] *British and Foreign State Papers*, vol. 96, pp. 837–838.

[5] *Ibid.*, vol. 104, pp. 137 ff.

[6] League of Nations Treaty Series, vol. 74, pp. 320–325.

Japan trusts that the Allied Powers will enter into c the Japanese Government with a view to arrangemer for the maintenance of any Japanese war graves or ce may exist in the territories of the Allied Powers and sired to preserve.

10. ADDRESS BY THE PRESIDENT AT SAN
SEPTEMBER 4, 1951[1]

I am glad to welcome you to this conference for sig of peace with Japan. The people of the United Stat to serve as hosts for this meeting.

Six years ago, the nations represented at this c engaged in a bitter and costly war. Nevertheless, th others came together here, in this very hall, to set Nations as the first essential step toward a firm and l

Today, we meet here again to take another step al peace. On this occasion, it is our purpose to conclu peace with a country we were fighting in 1945. We our former enemy to the community of peaceful nati

The treaty we are gathered here to sign has not b spirit of revenge. The treaty reflects the spirit in w on the war. The principles for which we fought w forth by President Franklin D. Roosevelt right afte On December 9, 1941, in a broadcast to the American

"When we resort to force, as now we must, we are c this force shall be directed toward ultimate good as immediate evil. . . . We are now in the midst of conquest, not for vengeance, but for a world in wh and all that this nation represents, will be safe for ou

That is our purpose here today as we gather to treaty. We are trying to build a world in which the nations can live together in peace. We hope we ar ultimate good to which President Roosevelt referre

Unfortunately, today, the world is faced with nev gression. Many of the countries represented here a in a hard fight to uphold the United Nations again lawbreaking. But we have not forgotten that ou We will not let the present conflict deter us from ta than we let the existence of war in 1945 hold up our efforts for the United Nations.

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[1] Department of State *Bulletin*, Sept. 17, 1951, pp. 447-450.

[2] *Ibid.*, Dec. 13, 1941, pp. 476-480.

The people of all our countries long for one thing above all else and they are determined to have it. What they want is a world a peace—a world where there is justice and freedom for all men and all nations. Our peoples demand of us that we take every possible measure to reach that goal.

We who stand ready to sign this treaty with Japan believe in peace We believe in peace based on freedom and international justice. We know that a free and independent people have more vigor and staying power and can do more to help secure the peace than a people held under alien control. We believe that the whole great effort for peace will be strengthened if Japan is now restored to independence and linked to other free nations by ties of mutual friendship and responsibility.

OBJECTIVE OF OCCUPATION ACHIEVED

Since the fighting ended in 1945, Japan has been an occupied country. The occupation was designed by the wartime Allies to prevent future Japanese aggression and to establish Japan as a peaceful and democratic country, prepared to return to the family of nations The United States, as the principal occupying power, was given a special responsibility to carry out these objectives.[1] It is our judgment that they have been achieved. I wish on this occasion to express the pride that my countrymen and I feel in the way in which the Allied occupation has been carried out. Its success has been due to the devoted efforts of many thousands of people serving under the outstanding leadership of General of the Army Douglas MacArthur and his successor General Matthew Ridgway.

I would also like to pay tribute to the impressive effort put forward by the people of Japan in this period. They have fully complied with the surrender terms. They have cooperated fully in carrying out the purposes of the occupation. The result has been a remarkable and unprecedented period of progress in Japanese history Japan, today, is a very different country from what it was six years ago. The old militarism has been swept away. This has been done not just by occupation edict but by the overwhelming will of the Japanese people themselves. The secret police and the police-state methods used by the former government have been abolished.

The new Japanese constitution[2] provides a bill of rights for all citizens and establishes a government truly representative of the people. The Japanese people now have universal suffrage, and they ions, more than 90 percent of those eligible have voted. Japanese women now vote and take part in the government and enjoy full democratic rights for the first time. Free and independent labor unions have been established, and farm cooperatives have been greatly expanded. The monopolies that used to have such a stranglehold on the Japanese economy have been substantially broken up.

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[1] This "special responsibility" of the United States with respect to the occupation of Japan by the Allied Powers was not formally recognized until the signature of the Report of the Meeting of the Ministers of Foreign Affairs of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom, at Moscow, Dec. 27, 1945, which established the Far Eastern Commission and the Allied Council for Japan. See *A Decade of American Foreign Policy*, pp. 60–63.

[2] See *The Constitution of Japan, Effective May 3, 1947* (Department of State publication 2836; 1947).

Remarkable progress has been made in land reform. Over 5 million acres of land have been purchased from the old landlords and sold to working farmers. Today, about 90 percent of all cultivated land belongs to those who work on it, as compared with less than 50 percent in 1945. This is a great achievement, full of meaning for all Asia.

Through these and other reforms, the Japanese people have been developing a stable economy and a democratic society. They still have a long way to go, but they are well on the road to building a new Japan—dedicated to the arts of peace and the well-being of the people. Because of these accomplishments, it is possible at this time to restore full sovereignty to the Japanese people.

This does not mean that the slate has been wiped clean. The United States has not forgotten Pearl Harbor or Bataan, and many of the other nations represented here have similar memories that will not easily be erased. The new Japan will not find the world entirely friendly and trusting. It will have to keep on working to win the friendship and trust of other peoples over the years to come. But the foundations for a peaceful future have been laid. It is now time to move ahead with the restoration of normal relations between Japan and the rest of the world.

Treaty Constructed by Cooperative Effort

This conference is the result of a year of cooperative effort toward that end. A year ago this month, at my request, Mr. John Foster Dulles began to consult other governments about a treaty of peace with Japan.[1] Mr. Dulles has performed this task faithfully and well, guided by the highest traditions of statesmanship.

There were, of course, differences of opinion among the nations concerned as to many of the matters covered by this treaty. The text of the treaty now before us is the product of long and patient negotiations, among many nations, which were undertaken to reconcile these differences. I think it is fair to say that it is a good treaty. It takes account of the principal desires and ultimate interests of all the participants. It is fair to both victor and vanquished. But more than that, it is a treaty that will work. It does not contain the seeds of another war. It is a treaty of reconciliation, which looks to the future, not the past.

The treaty reestablishes Japan as a sovereign, independent nation. It provides for the restoration of Japanese trade with other nations and it imposes no restrictions upon Japan's access to raw materials tions to the countries which suffered from its aggression. But it does not saddle the Japanese people with a hopeless burden of reparations which would crush their economy in the years to come.

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[1] See President Truman's statement of Jan. 11, 1951, and Secretary Acheson's statement of Jan. 17, 1951, Department of State Bulletin, Jan. 29, 1951,

In all these respects, the treaty takes account of the peaceful advances the Japanese people have made in recent years, and seeks to establish the conditions for further progress. However, there is one thing we must all recognize. There can be no progress unless the Japanese people and their neighbors in the Pacific are made secure against the threat of aggression.

At the present time, the Pacific area is gravely affected by outright aggression and by the threat of further armed attack. One of our primary concerns in making peace with Japan, therefore, is to make Japan secure against aggression and to provide that Japan, in its turn, will so conduct itself as not to endanger the security of other nations. To accomplish this, it is important to bring Japan under the principles of the United Nations and within the protection of the mutual obligations of United Nations members. The treaty expresses Japan's intention to apply for membership in the United Nations. The other countries who sign the treaty can be counted on to work for the admission of Japan to membership. But even so, there may be delays before Japan can be admitted.

Under the treaty, therefore, the Japanese people bind themselves to accept immediately the basic obligations of a United Nations ember—namely, to refrain from aggression, to settle disputes peacefully, and to support the efforts of the United Nations to maintain the peace. At the same time, the other nations who sign the treaty specifically recognize that Japan is entitled to the protection of the United Nations Charter. In a sense, these provisions are the heart of this treaty. Under them, Japan becomes part of the community of nations pledged to outlaw aggression and to support a world order based on justice. This tying together of the Japanese peace treaty and the United Nations Charter is a long step toward building security in the Pacific. But more than this is needed.

WORLD PEACE DEPENDS ON SECURITY AGREEMENTS

In the present world situation, it has been necessary to buttress the peaceful principles of the United Nations Charter with regional arrangements for the common defense against aggression. If real security is to be attained in the Pacific, the free nations in that area must find means to work together for the common defense.

The United States recognizes this fact. Our people have suffered from past aggression in the Pacific and are determined that this country shall do its part for peace there. In recent days, we have joined with other Pacific nations in important mutual security agreements.

Last Thursday, the Philippines and the United States signed a treaty of mutual defense.[1] Under this treaty, each country recognizes that an armed attack on the other in the Pacific area would be to meet the common danger.

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[1] Treaty of Aug. 30, 1951; *infra*, pp. 873–875.

Last Saturday, a similar security treaty was signed by Australia, New Zealand, and the United States.[1]

These treaties are initial steps toward the consolidation of peace in the Pacific. It is vital that Japan be included, as soon as possible, in appropriate security arrangements for keeping peace in the Pacific. This is necessary for her own protection and the protection of other countries. The peace treaty, therefore, recognizes that Japan, as a sovereign nation, must possess the right of self-defense and the right to join in defense arrangements with other countries under the United Nations Charter.

The development of regional arrangements for defense in the Pacific will mean that such Japanese defense forces as may be created would be associated with the defense forces of other nations in the area. Japan's security would not depend exclusively on Japanese forces but on interrelated security arrangements with other countries. The Japanese contribution, by itself, would not constitute an offensive threat. But Japanese forces, together with forces of other nations, would provide mutual security against threats to the independence of the nations of the Pacific, including Japan.

At present, of course, Japan is totally unarmed. In view of the open aggression taking place near Japan, the Japanese Government has requested the United States to enter into a bilateral treaty for Japan's immediate security.[2] Under such a treaty, the United States would maintain armed forces in Japan for the time being as a contribution to international peace and to Japan's defense against attack. Security arrangments are essential in a world in danger. In the Pacific as in other parts of the world, social and economic progress is impossible unless there is a shield which protects men from the paralysis of fear.

But our great goal, our major purpose, is not just to build bigger and stronger shields. What we want to do is to advance, as rapidly as we can, the great constructive tasks of human progress. We in the United States respect and support the many new free and independent nations in the Pacific area and Asia. We want to see them grow and prosper, as equal partners in the community of independent nations of both East and West. We want to cooperate with them, to help them in their agricultural and industrial development. We wish to see these nations attain in dignity and freedom a better life for their peoples—for that is the road to world peace.

Equality for Japan in Partnership of Peace

These countries have a rich historical and cultural heritage. Today, their people are experiencing great economic and social changes. They are stirred by a new zeal for progress and independence. Already, we have seen some of the progress that can be made—progress in stamping out malaria, in building schools and training teachers, in growing more food, and creating new industries. Immense opportunities lie ahead if these countries can pursue their national destinies in a partnership of peace, free from the fear of aggression. Under this peace treaty, we believe Japan can and will join in this partnership of peace.

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[1] Treaty of Sept. 1, 1951; *infra*, pp. 878–880.

[2] Treaty of Sept. 8, 1951; *infra*, pp. 885–886.

We look forward to the contribution which the new Japan, with its rich culture and its dedication to peace, can bring to the community of nations. We expect this contribution to grow over the years, for the signing of a peace treaty is but one part of the process of making peace. When aggression and war have severed relations between nations, many ties which bind one nation to the others are cut. Making peace is like repairing the many strands of an intercontinental cable; each strand must be spliced separately and patiently, until the full flow of communication has been restored. There is no other way to bring lasting peace than this slow and patient process, step by step, of mending and strengthening the cables of communication, of understanding between nations.

In this San Francisco Conference, we have the opportunity to take one vital step toward lasting peace. Our specific task here is to conclude the treaty of peace with Japan. That will be a great step toward general peace in the Pacific. There are other steps which need to be taken. The most important of these is the restoration of peace and security in Korea. With Japan returned to its place in the family of nations, and with the people of Korea secure, free, and united, it should be possible to find ways to settle other problems in the Pacific which now threaten the peace.

The United States has made clear on many occasions its desire to explore with other governments at the proper time and in the proper forum how this might be accomplished. There are many well established ways in which next steps can be explored, if there is a genuine desire for peace in all quarters. But these are not matters which can be dealt with in our present conference. We have come here to take a single step—but a step of the utmost importance.

The treaty now before us offers more than talk of peace; it offers action for peace. This conference will show, therefore, who seeks to make peace, and who seeks to prevent it; who wishes to put an end to war, and who wishes to continue it.

We believe this treaty will have the support of all those nations that honestly desire to reduce the tensions which now grip the world. I pray that we shall all be united in taking this step to advance us toward greater harmony and understanding.

As we approach the peace table, let us be free of malice and hate, to the end that from here on there shall be neither victors nor vanquished among us, but only equals in the partnership of peace.

PRESIDENT AT SAN FRANCISCO, SEPTEMB

THE PURPOSE IS PEACE

We have met here for a consecrated purpose. We shall peace. "Blessed are the peacemakers."[3] But the most bl peace are not those of us who assemble here. The founda peace was laid by the many who gave up their lives in fa very magnitude of their sacrifice would compel those w to find and take the way of peace.

We are here to redeem, in some small measure, the vast d

That task is not a simple one. Victory usually gives p than should be possessed by those who are moved by t that war engenders. That is a principal reason why war a self-perpetuating institution.

The treaty before us is a step toward breaking the v of war—victory—peace—war. The nations will here m of justice, not a peace of vengeance.

THE OCCUPATION PREPARED THE WAY

True peace is possible because of what has been acco 6 years of Allied occupation. That occupation was ca poseful. Japan's war-making power was destroyed. T and influence of those who committed Japan to armed c eliminated. Stern justice was meted out to the war crim mercy was shown the innocent. There has come freedo of religion, of thought; and respect for fundamental hu There has been established, by the will of the people, inclined and responsible government, which we are happy here.

The Allied occupation goals set forth in the Potsda terms have been met, with the loyal cooperation of t people. It is now time to end that occupation, and make a will restore Japan as a sovereign equal.

It is possible now to make that kind of a peace, to peace of reconciliation, because the Japan of today is from the Japan of yesterday.

The past is not forgotten or excused. Bitterness and dis the sentiment of many. That is human. Those who have have no warrant to set themselves up as moral judges o have suffered more. But the time and the good use to been put in Japan have somewhat healed the scars of war. have gradually displaced old fears. Now, by an effort of which is perhaps unprecedented in history, the Allies pres a treaty which shows no trace of angry passion.

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[1] John Foster Dulles.

[2] S. Execs. A, B, C, and D, 82d Cong., 2d sess., Annex I.

[3] Matthew 5: 9.

[4] Allied declaration of July 26, 1945; *A Decade of American F*

it is an act of enlightened self-interest. For a treaty warped by passion often becomes a boomerang which, thrown against an enemy returns to strike its authors.

For this treaty we are deeply indebted to the man who led the Allied Powers to victory in the Pacific. After that victory he devoted 5½ years to service in Japan as supreme commander for the Allied Powers. As such he showed not only magnanimity, but strength without which magnanimity is counted weakness. He provided the occupation with moral leadership which has been the impulsion for the kind of peace we make. The present generation and generations to come owe much to General MacArthur.

ELEVEN MONTHS OF CONFERENCE

In framing the peace, the United States has taken an initiative That was plainly our duty.

Some now find it expedient to disparage the role played by the United States in the Pacific War. None did so in the hour of victory Then, by a unanimous Allied act, the United States was given the exclusive power to name the supreme commander for all the Allied Powers and to direct the occupation which would prepare Japan for the peace to come.[1] That Allied act put us in a position uniquely to judge when the Japanese were prepared for peace. It surely entitled us, indeed it obligated us, to take timely steps to bring our occupation responsibilities to their normal predestined end.

We first moved in this matter 4 years ago. In 1947 the United States proposed a preliminary conference of the governments represented on the Far Eastern Commission [2] to consider plans for a Japanese Peace Treaty.[3] That proposal was blocked by the insistence of the Soviet Union that the treaty could only be considered by the Council of Foreign Ministers where the Soviet Union would have veto power.[4] The Soviet Union continued stubbornly to adhere to that position.

Last year the United States decided to abandon the conference method, which afforded excessive possibilities of obstruction, and to seek peace through diplomatic processes which no single nation could thwart.[5] That has been done with the hearty cooperation of most of the Allies and has resulted in a finished text.

The negotiations began about a year ago when the Allies principally concerned were gathering to attend the United Nations General As had frequent consultations at that time. Then came conferences at many capitals and many written exchanges of views. A United States Presidential mission[1] toured the globe, visiting 10 capitals of countries especially concerned. Meanwhile, the United Kingdom was exploring the problem within the Commonwealth, and its representative will tell you more of that.[2]

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[1] See *A Decade of American Foreign Policy*, pp. 60–63.

[2] At the time of the first American proposals, the Far Eastern Commission included the following countries: the United States, the United Kingdom, the Soviet Union, China, the Philippines, India, Australia, New Zealand, France the Netherlands, and Canada. After the establishment of Pakistan (Aug. 15 1947) that country was also admitted to membership.

[3] See the statement of July 16, 1947, by the Department of State; Department of State *Bulletin*, July 27, 1947, p. 182.

[4] See the American aide-mémoire of Aug. 12, 1957, to the Soviet Union; *ibid.* Aug. 24, 1947, pp. 395–396.

[5] See President Truman's statement of Sept. 14, 1950; *ibid.*, Sept. 25, 1950

The first round of discussions dealt with the question of whether it was time for peace and, if so, what basic principles should be applied. In this connection the United States outlined seven principles [3] which it felt ought to govern the framing of the treaty.

"PRINCIPLES FOR JAPANESE PEACE TREATY

"There is given below a brief general statement of the type of treaty envisioned by the United States Government as proper to end the state of war with Japan. It is stressed that this statement is only suggestive and tentative and does not commit the United States Government to the detailed content or wording of any future draft. It is expected that after there has been an opportunity to study this outline there will be a series of informal discussions designed to elaborate on it and make clear any points which may be obscure at first glance.

"The United States proposes a treaty with Japan which would end the state of war, restore Japanese sovereignty, and bring back Japan as an equal in the society of free peoples. As regards specific matters, the treaty would reflect the principles indicated below:

"1. *Parties.*—Any or all nations at war with Japan which are willing to make peace on the basis proposed and as may be agreed.

"2. *United Nations.*—Membership by Japan would be contemplated.

"3. *Territory.*—Japan would (*a*) recognize the independence of Korea; (*b*) agree to United Nations trusteeship, with the United States as administering authority, of the Ryukyu and Bonin Islands; and (*c*) accept the future decision of the United Kingdom, Union of Soviet Socialist Republics, China, and the United States with reference to the status of Formosa, Pescadores, South Sakhalin, and the Kuriles

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[1] This mission was headed by Mr. Dulles, who had been appointed Consultant to the Secretary of State, effective Apr. 19, 1950 (*ibid.*, June 26, 1950, p. 1062) and had subsequently been assigned "responsibilities in the Department concerning a Japanese peace settlement" as announced by the Department of State June 7, 1950 (*ibid.*, June 19, 1950, p. 998). The scope of the mission was announced by the President in a statement released to the press, Sept. 14, 1950 (*ibid.*, Sept. 25, 1950, p. 513), and its completion was announced by the White House in the statement, released Jan. 11, 1951, designating Mr. Dulles Specia Representative of the President (*ibid.*, Jan. 29, 1951, p. 185).

[2] See the address by Kenneth C. Younger, British delegate at the San Francisco conference, delivered at the Second Plenary Session, Sept. 5, 1951; *Conference for the Conclusion and Signature of the Treaty of Peace with Japan . . . Record of Proceedings* (Department of State publication 4392; 1951), pp. 88–97

[3] S. Execs. A, B, C, and D, 82d Cong., 2d sess., Annex II, pp. 21–22; this U.S. Memorandum to the Governments on the Far Eastern Commission was first made public Nov. 24, 1950 (Department of State *Bulletin*, Dec. 4, 1950

In the event of no decision within a year after the treaty came int effect, the United Nations General Assembly would decide. Specia rights and interests in China would be renounced.

"4. *Security.*—The treaty would contemplate that, pending satisfactory alternative security arrangements, such as United Nation assumption of effective responsibility, there would be continuin cooperative responsibility between Japanese facilities and the Unite States and perhaps other forces for the maintenance of internationa peace and security in the Japan area.

"5. *Political and commercial arrangements.*—Japan would agree t adhere to multilateral treaties dealing with narcotics and fishing Prewar bilateral treaties could be revived by mutual agreement Pending the conclusion of new commercial treaties, Japan woul extend most-favored-nation treatment, subject to normal exceptions

"6. *Claims.*—All parties would waive claims arising out of war act prior to September 2, 1945, except that (*a*) the Allied Powers would in general, hold Japanese property within their territory, and (*b* Japan would restore allied property or, if not restorable intact rovide yen to compensate for an agreed percentage of lost value.

"7. *Disputes.*—Claims disputes would be settled by a special neutra tribunal to be set up by the President of the International Court o Justice. Other disputes would be referred either to diplomatic settlement, or to the International Court of Justice."

We found complete agreement to the urgency of prompt peac nd general agreement as to the basic principles. So, in January o this year; the United States undertook to make the first draft of text which would translate the agreed principles into treaty words That draft was circulated last March,[1] and was subjected to intensiv tudy by over 20 countries. These included not only the Far Easter Commission countries, but others which had expressed interest. Th American states were kept informed, as was their due. Mexico ha actively participated in the Pacific War, as had Brazil in the Europea War. All had made important political, economic, and moral contributions.

Meanwhile, the United Kingdom produced a text of its own, drafte n the light of the Commonwealth conferences. Then in June, th United States and the United Kingdom combined their parallel effort and jointly drafted a text to reconcile and reflect still more fully th different views that had been developed. This text was circulate to Allied Powers during the first half of July[2] and was kept open fo further changes until mid-August.

Throughout this period, the Soviet Union took an active, thoug reluctant, part. We had several conferences with Yakov Malik[3] an our Governments have exchanged 10 memoranda and drafts.[4]

can claim authorship of important parts of the present text. Also each of these nations can claim the equally honorable distinction of voluntarily subordinating some special interest so that a broad base of unity might be found. The Allied Powers have been conducting what, in effect, is an 11 months' peace conference participated in by so many nations as to make this treaty the most broadly based peace treaty in all history.

Any who are interested in studying the evolutionary processes which have been at work can compare our March draft with the present text. To make that comparison easy, a parallel-column document has been prepared for distribution here.[1] It shows how our conference methods have worked.

The treaty remains, as first agreed, a nonpunitive, nondiscriminatory treaty, which will restore Japan to dignity, equality, and opportunity in the family of nations. But it has been found increasingly impossible to do justice to particular situations without violating these basic concepts.

I now turn to a consideration of the principal provisions of the text.

THE TREATY TERMS

The preamble

The preamble is an important part of the treaty. It affords the Japanese nation the opportunity to record intentions and aspirations which the whole world welcomes.

Japan declares its intention to apply for membership in the United Nations; to conform to the principles of the Charter; to adhere to the new ideals of human rights and freedoms which have become implanted in the Constitution and Legislation of Japan; and, in public and private trade and commerce, to conform to internationally accepted fair practices.

If Japan's intentions in these respects are sincere, which we believe, and if they are pursued with resolution, they will go far to restore good will between the Japanese and Allied people.

It may be asked why, if that is so, the treaty does not attempt to put the Japanese under legal compulsion in these respects. There are good reasons for not doing so. Japan, when it applies for membership in the United Nations, should do so because it wants to be a member, not because the Allies compelled it. Eighty million people cannot be compelled from without to respect the human rights and fundamental freedoms of their fellows. Fair-trade practices cannot be made a formal obligation when they have not yet been spelled out in international conventions. In general, treaty obligations should only be such as can be precisely formulated, so that the parties will clearly know just what are their rights and what are their duties. Where applicable conventions exist, Japan will voluntarily adhere to them, as set out in the declaration appended to the treaty.

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[1] San Francisco Conference doc. 17, "Comparative Study of the March 1951 Draft and the August 13, 1951, Text of the Japanese Peace Treaty", Sept. 6, 1951. (See footnote 1, page 76, *Conference for the Conclusion and Signature of the Treaty*

Chapter I ends the state of war, with consequent recognition of the full sovereignty of the Japanese people. Let us note that the sovereignty recognized is the "sovereignty of the Japanese people."

Territory

What is the territory of Japanese sovereignty? Chapter II deals with that. Japan formally ratifies the territorial provisions of the Potsdam surrender terms, provisions which, so far as Japan is concerned, were actually carried into effect 6 years ago.

The Potsdam surrender terms [1] constitute the only definition of peace terms to which, and by which, Japan and the Allied Powers as a whole are bound. There have been some private understandings between some Allied Governments; but by these Japan was not bound, nor were other Allies bound. Therefore, the treaty embodies article 8 of the surrender terms which provided that Japanese sovereignty should be limited to Honshu, Hokkaido, Kyushu, Shikoku, and some minor islands. The renunciations contained in article 2 of chapter II strictly and scrupulously conform to that surrender term.

Some question has been raised as to whether the geographical name "Kurile Islands" mentioned in article 2 (c) includes the Habomai Islands. It is the view of the United States that it does not. If, however, there were a dispute about this, it could be referred to the International Court of Justice under article 22.

Some Allied Powers suggested that article 2 should not merely delimit Japanese sovereignty according to Potsdam, but specify precisely the ultimate disposition of each of the ex-Japanese territories. This, admittedly, would have been neater. But it would have raised questions as to which there are now no agreed answers. We had either to give Japan peace on the Potsdam surrender terms or deny peace to Japan while the Allies quarrel about what shall be done with what Japan is prepared, and required, to give up. Clearly the wise course was to proceed now, so far as Japan is concerned leaving the future to resolve doubts by invoking international solvents other than this treaty.

Article 3 deals with the Ryukyus and other islands to the south and southeast of Japan. These, since the surrender, have been under the sole administration of the United States.

Several of the Allied Powers urged that the treaty should require Japan to renounce its sovereignty over these islands in favor of United States sovereignty. Others suggested that these islands should be restored completely to Japan.

In the face of this division of Allied opinion, the United States felt that the best formula would be to permit Japan to retain residual sovereignty, while making it possible for these islands to be brought into the United Nations trusteeship system, with the United States as administering authority.

You will recall that the Charter of the United Nations contembe detached from enemy states as a result of the Second World War" (art. 77). The future trusteeship agreement will, no doubt, determine the future civil status of the inhabitants in relation to Japan while affording the administering authority the possibility of carrying out article 84 of the Charter, which provides that—

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[1] Allied declaration of July 26, 1945; *A Decade of American Foreign Policy* pp. 49–50.

> It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security.

A peace which limits Japanese territory according to the Potsdam surrender terms, naturally leads one to ask, Can a growing population, now numbering over 80,000,000, survive on the Japanese home islands? A clue to the correct answer is the fact that, when Japan had a vast colonial empire into which the Japanese people could freely emigrate, few did so. Formosa, a rich, uncrowded land with temperate climate, attracted, in 55 years, a total Japanese population of about 350,000. Korea, under Japanese control since 1905, attracted a total Japanese population of about 650,000. In South Sakhalin there were 350,000 Japanese and in the Kurile Islands about 11,000. Japan's colonies helped assure Japan access to food and raw materials, but they were no population outlet. Japanese, like other people, prefer to live at home. So far as emigration is concerned, the territorial clauses of the treaty do not establish restraints greater than those which 98 percent of the Japanese people voluntarily put upon themselves.

Of course growing populations create problems in Japan and elsewhere. The Japanese will need to develop the capacity to perform services which others want, so that in exchange they can buy the food and raw materials they need. This calls for willingness on the part of the Japanese people to work hard, to work efficiently, and to work with creative imagination so that they can anticipate the economic wants of others. Each of the Allied Powers also has a responsibility. The surrender terms promised the Japanese "access to raw materials" and "participation in world trade relations." Peoples who are ready and willing to work and to create what others want, should have the means to do so. Under such conditions the present territorial status of Japan is no cause for alarm.

Security

Chapter III deals with security, a problem which has not been, and never is, automatically solved by victory. By article 5, Japan undertakes to live peacefully, in accordance with the principles set forth in the Charter of the United Nations. We hope that Japan will promptly become a member of the United Nations. If this were certain, article 5 would be unnecessary. But, in the past, veto power has been used to block the admission of nations qualified for membership. So it is prudent to write into the treaty that, as provided by article 2 (6) of the Charter Japan will settle its international disputes by peaceful means; will refrain in its international relations from the threat or use of force; and will give the United Nations every assistance in any action it takes in accordance with the Charter.

These provisions completely meet the desire which some nations have expressed that the treaty should bind Japan to peaceful processes and explicitly prohibit Japan from acting forcibly, alone or in coalition, against any other nation. There can be nothing more sweeping than the renunciation of offensive force expressed in article 5 (a) (ii) of the treaty.

In order, however, that this treaty, like the United Nations Charter should make it perfectly clear that the prohibition against the use of force does not deprive Japan of the right of self-defense, subdivision (c) of article 5 contains a recognition that Japan as a sovereign nation possesses what article 51 of the Charter of the United Nations refers to as "the inherent right of individual or collective self-defense.'

Article 6 of the treaty calls for ending the occupation not later than 90 days after the treaty comes into force. However, Japan, as contemplated by article 51 of the United Nations Charter, may enter into collective security arrangements, and these might, in part, be implemented by Allied elements which were in Japan when the treaty came into force. Accordingly, it seemed useful to make it clear that under such circumstances, these elements would not have to be physically removed from Japan before they could serve as collective security forces. This would be a burdensome requirement, and a risky one for it would for a time leave Japan wholly defenseless, in close proximity to proved aggressors possessed of great military strength To avoid that danger, article 6 provides that occupation elements now in Japanese territory may stay on for Japan's defense, if this is wanted by Japan.

These remaining military elements would, of course, have characteristics and powers very different from what they had as occupation forces. They would have only such status in Japan as Japan would voluntarily have given them.

The security provisions which we have reviewed are necessary i the treaty of peace is honestly to restore sovereignty to Japan. It ha been suggested that the treaty ought to deny to Japan "the inheren right of collective self-defense" and permit only a token right o "individual self-defense."

That kind of a peace, in this present kind of a world, would be fraud. To give a sovereignty which cannot be defended, is to give an empty husk. Indefensible sovereignty is not sovereignty at all. An undefended and indefensible Japan would be so subject to the menace of surrounding power that Japan would not in fact be able to lead an independent existence.

It has been suggested that a collective security arrangement with the United States, such as Japan is considering, would not be a free act or what the Japanese people really want.

That is not a suggestion which will command credence here. Nearly

When I was in Japan last February this topic was discussed wit the Japanese for the first time. I then said publicly that Japan, if i wished, could share collective protection against direct aggression In order, however, to make perfectly clear our Government's positio in the matter I had this to say:

> That, however, is not a choice which the United States is going to impose upo Japan. It is an invitation. The United States is not interested in slavish conduct. . . . We are concerned only with the brave and the free. The choic must be Japan's own choice.[1]

No person in this room, and I mean that literally, honestly believe that Japan seeks collective security with the United States becaus it is coerced. That is palpably absurd.

As the President of the United States pointed out in his openin address to us,[2] security in the Pacific area is being developed on a collective basis which, through combination, enables each nation to ge security without making itself into what could be an offensive threat That is one way to approach the problem. The other way is to prohibit collective security and to follow the policy of "let each countr defend itself from aggressors as it likes or as best it can." That latte way, Generalissimo Stalin said, addressing his party on March 10 1939, means "conniving at aggression." [3]

Any nation which seeks to deny to Japan the right to collectiv security and which insists that Japan must stand alone is, at heart, conniver at aggression. Those who sign this treaty will not len themselves to that design.

I have expounded the philosophy of the treaty with reference to security because it is a philosophy which has been challenged. I hope however, that the time I have given to this subject will not lead an delegations to feel that military matters are our principal preoccupation.

Security from armed aggression is a negative asset. Our dedicatio is to the positive side of national life and of individual life. Throughout the Occupation the effort has been to create a climate conducive t human development. To that end, the United States has made tremendous moral investment. President Truman, in his openin address to us, emphasized the social revolution which has been takin place in Japan, the sweeping away of militarism, the establishmen of universal suffrage, the extensive land reforms, and the rapid growt of labor unions. Also, we are not ashamed of the fact that it wa under the Occupation that the Japanese people adopted a Constitutio forever barring war as an instrument of their national policy. If today, we are compelled to think in terms of a Treaty which will enabl Japan to protect its sovereignty and independence, it is not becaus

An outstanding humanitarian feature of the Japanese surrender was the Allied promise to return Japanese prisoners to their homes However, evidence produced before the United Nations General Assembly last September indicated that large numbers of Japanese soldiers, who had surrendered to the Soviet Union 5 years before had not yet been repatriated. The United Nations expressed its concern and set up a commission to study this matter.[1] In order to make clear that the Allied undertaking to Japan survives until it has been erformed, article 9 of the Potsdam surrender terms has been incorporated into the treaty of peace (art. 6 (b)). We earnestly hope that it will be fulfilled and tragic anguish be allayed.

Economic matters

Chapter IV deals with trade and commerce. The text is somewhat technical but the words add up to this: Japan is not subjected to any permanent discriminations and disabilities; her economy is unrestricted and no limitations whatever are placed upon her right to trade with each and every country.

The permanent relations between Japan and the Allied Powers, s regards trading, maritime, and other commercial relations (art. 12); s regards high-seas fishing (art. 9); as regards international air transport (art. 13), are to be negotiated between Japan and Allied Powers so desiring. Pending the conclusion of such treaties, and for a 4-year interim period, each Allied Power will be entitled to most-favored-nation treatment as regards customs duties, but only on a basis of reciprocity.

These are liberal treaty clauses. The fulfillment of the hopes placed in them will, however, depend on whether Japan lives up to ts intention, proclaimed in the preamble, “to conform to internationally accepted fair practices,” and on whether the Allied Powers, by their domestic legislation, extend to Japan trading possibilities which are reasonable, having regard to their own domestic requirements On these matters a peace treaty can do no more than point the way to a healthy trade relationship and create the opportunity to go in that way. That this treaty does.

Reparations

Reparations is usually the most controversial aspect of peacemaking The present peace is no exception.

On the one hand, there are claims both vast and just. Japan's agression caused tremendous cost, losses and suffering. Governments epresented here have claims which total many billions of dollars and China could plausibly claim as much again. One hundred thousand million dollars would be a modest estimate of the whole.

On the other hand, to meet these claims, there stands a Japan presently reduced to four home islands which are unable to produce the food its people need to live, or the raw materials they need to work

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[1] General Assembly Res. 427 (V) of Dec. 14, 1950; General Assembly, *Officia Records, Fifth Session, Supplement No. 20* (A/1775), p. 45.

import for survival on a minimum basis. The United
good that 2-billion-dollar deficit. We accepted tha
occupation responsibilities. But the United States is
forward to Japan's becoming economically self-sust
end dependence on us; and it is not disposed, direct
to pay Japan's future reparations.

Under these circumstances, if the treaty validate
tingently alive, monetary reparation claims against
nary commercial credit would vanish, the incentive of
be destroyed and they would sink into a misery of
which would make them an easy prey to exploitatio
demagogues would surely rise up to promise relief t
aggression with the help of those nearby who, as
Korea, are already disposed to be aggressors. The o
appear in aggravated form.

Such a treaty, while promoting unity among a
promote disunity among many Allied Powers. There
competition for the largest possible percentage of a
gold. Already, several countries have approached t
with suggestions that their particular claims for r
be favored at the expense of others.

A treaty which on the one hand encouraged divisio
aggression states and on the other hand brought re
of the aggressive states, would be a treaty which
squander the opportunity of victory. The parties
would expose themselves to new perils greater than
have barely survived.

These conflicting considerations were fully discu
emerged a solution which gives moral satisfaction
justice and which gives material satisfaction to the
compatible with political and economic health in the

The treaty recognizes, clearly and unambiguou
should pay reparation to the Allied Powers for
suffering caused by it during the war.

It then goes on to dedicate to the implementation
certain assets which Japan does have in surplus an
put to work to help to compensate those nations w
most from Japan's wartime acts.

Japan has a population not now fully employed,
trial capacity not now fully employed. Both of the
employment are caused by lack of raw materials.
are possessed in goodly measure by the countries wh
by Japan's armed aggression. If these war-devastat
to Japan the raw materials which many of them ha
the Japanese could process them for the creditor coun
services, freely given, provide appreciable reparatio
ments could cover not merely consumers goods bu
capital goods which would enable underdeveloped c

dependence on outside industrial power.

This is, in essence, the formula expressed in article 14 (a) 1. It results from prolonged exchanges of views, particularly with such countries as the Philippines and Indonesia, which were occupied by Japanese forces and injured in a way which places on the Allied Powers as a whole, and on Japan, a very clear duty to seek all means of reparation which are realistic.

I am frank to say that the treaty is a better, fairer treaty than first drafted. That results from the proper insistence of some governments that all possibilities of reparation should be exhaustively explored. That has been done, and the result is a fresh demonstration of the worth of the free processes of free and equal people. Those processes have here produced a treaty formula which serves the ideal of justice within an economic framework which can benefit all concerned.

In addition to this source of future reparation, the treaty validates the taking, by Allied Powers, of Japanese property within their jurisdictions.

By article 16, Japanese property in neutral and ex-enemy countries is to be transferred to the International Red Cross for the benefit of former prisoners of war and their families, on the basis of equity, to make some compensation for undue hardship suffered, often in violation of the Geneva conventions. The United States, in response to some Allied inquiries, has indicated that, since its own prisoners of war have received some indemnification out of proceeds of Japanese property we seized, we would assume that equity would require first distribution to those who have had no comparable indemnification

Allied property within Japan is to be returned. Where this cannot be done, because of war damage, there will be compensation in blocked yen in accordance with pending Japanese domestic legislation

Korea

Article 21 makes special provision for Korea. The Republic of Korea will not sign the treaty of peace only because Korea was never at war with Japan. It tragically lost its independence long before this war began, and did not regain independence of Japan until after Japan surrendered. Many individual Koreans steadfastly fought Japan. But they were individuals, not recognized governments.

Nevertheless, Korea has a special claim on Allied consideration, the more so as it has not yet proved possible for the Allies to achieve their goal of a Korea which is free and independent. Korea is, unhappily, nly half free and only half independent; and even that fractional freedom and independence has been cruelly mangled and menaced by armed aggression from the North.

Most of the Allied Powers have been seeking to make good their promise of freedom and independence and, as members of the United Nations, to suppress the aggression of which Korea is the victim. By his treaty, the Allies will obtain for Korea Japan's formal recognition of Korea's independence, and Japan's consent to the vesting in the Republic of Korea, of the very considerable Japanese property in as regards postwar trading, maritime, fishing, and other commercial arrangements. Thus the treaty, in many ways, treats Korea like an Allied Power.

China

The absence of China from this Conference is a matter of deep regret. Hostilities between Japan and China first began in 1931 and open warfare began in 1937. China suffered the longest and the deepest from Japanese aggression. It is greatly to be deplored that the Sino-Japanese war cannot be formally terminated at this occasion Unhappily, civil war within China and the attitudes of the Allied Governments have created a situation such that there is not general international agreement upon a single Chinese voice with both the right and the power to bind the Chinese nation to terms of peace Some think that one government meets these tests. Some think another meets them. Some doubt that either meets them. No majority can be found for any present action regarding China. Thus, the Allies were faced with hard choices.

They could defer any peace with Japan until they could agree that there was in China a government possessed of both legitimacy and authority. It would, however, be wrong, cruel, and stupid to penalize Japan because there is civil war in China and international disagreement regarding China.

As another approach, each Allied Power could refuse to sign a treaty of peace with Japan unless a Chinese government of its choice was cosigner with it. That, we ascertained, would leave Japan at war with so many Allied Powers that Japan would get only a small measure of the peace she has earned. Indeed, there is no reason to believe that Japan, an essential party, would willingly cooperate in a program leading to that end. To exert compulsion, in this matter would create resentment in Japan, and it would activate and aggravate Allied division in the face of a grave world-wide menace which requires maximum unity.

The remaining choice was for the Allied Powers generally to proceed to conclude peace without any present Chinese cosignature, leaving China and Japan to make their own peace, on terms, however which would guarantee full protection of the rights and interests of China.

That is the choice reflected by the present treaty. By article 26 China is given the right to a treaty of peace with Japan, on the same terms as the present treaty.[1] The victorious Allies, which sign the treaty, take nothing for themselves that they do not assure equally to China. Also, by article 21, China, without need of signature, gets the sweeping renunciation by Japan (art. 10) of all Japan's special rights and interests in China, in accordance with a formula suggested by the Republic of China. Also, China receives automatically, and the seizure of Japanese property subject to its jurisdiction. The treat preserves, in full, the rights of China as one of the Allied victors i this war.

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[1] Japan concluded a treaty of peace with the Republic of China on Apr. 28, 1952 *The Japan Year Book, 1949–52*, pp. 485–488.

Final clauses

Chapter VII contains clauses which are largely matters of protocol Of these, article 23, dealing with ratification, gives those signatorie to the treaty which have been actively concerned with the occupatio a special position, for 9 months, regarding the bringing of the treat into force. But after 9 months all of the Allied Powers stand on a equal footing as regards bringing the treaty into force as betwee themselves and Japan.

GOOD PEACE NOW OR BETTER PEACE NEVER

Such, in broad outline, are the main aspects of the treaty that awaits our signature.

It contains, no doubt, imperfections. No one is completely satisfied But it is a good treaty. It does not contain the seeds of another war It is truly a treaty of peace.

We may hear a suggestion that we should not now complete, b ignature, this product of a year's negotiation, but resort to new procedures, with new parties. It may be pretended that thereby we can gai reater unity and more perfection. At first that may sound plausibl and tempting. It may seem to offer the partially dissatisfied a chanc for great satisfaction.

In some Allied countries there are organized groups which urge tha the treaty could be changed merely to benefit them, leaving everythin else intact. If all of these proposals were to be brought together, i would be apparent that the cumulative effect would be destructive o any agreed peace.

Fortunately, there are also in most of the Allied countries those wh see with truer vision. They know that this treaty is good to the poin where it cannot be made better without its becoming worse. Bette words might theoretically be found, but to seek these is to let escap hat is now within our grasp. There come times when to seek th perfect is to lose the good. This is such a time.

There is greater unity now than we are apt to find if there is renegotiation. The treaty has been painstakingly built by the delicate processes of diplomacy, helped by an unusual display of self-restraint an good will. But it is not wise to assume that those qualities will be eve present and that differences can always be composed.

There is a larger measure of satisfaction now than we can ever ge again. Delay will inevitably set in motion corroding forces and contradictory efforts which will block each other and frustrate the possibilities inherent in a common effort of good will.

In terms of Japan's future, delay would cost a price which make petty all the sacrifices incident to present action. The great goals o victory will have been made unattainable.

It was our common hope that, out of the fiery purge of war there would rise a new Japan. That was no foolish hope. Japan has a great culture and tradition which are capable of producing distinctively, but no less authentically, those virtues which all nations and peoples must possess if there is to be a world-wide commonwealth of peace.

In order, however, that that potentiality shall become actuality, Japan needs free political institutions in a climate conducive to their vigorous growth; social progress; an equal administration of justice; an awareness of human dignity; a sense of self-respect; of respect for others.

Above all, Japan needs the will to live at peace with others as good neighbors.

All of this is possible if we make peace now. It becomes impossible, or at best improbable, if Japan's long-deferred hopes are now blasted.

There are in Japan new-born institutions of freedom. But they will not flourish if military rule continues indefinitely to be supreme.

Dignity cannot be developed by those who are subject to alien control, however benign.

Self-respect is not felt by those who have no rights of their own in the world, who live on charity and who trade on sufferance.

Regard for justice rarely animates those who are subject to such grave injustice as would be the denial of present peace.

Fellowship is not the mood of peoples who are denied fellowship.

The United States which, since the surrender, has directed the occupation on behalf of all the Allies, says solemnly to each of the Allies: Unless you now give Japan peace and freedom on such honorable terms as have been negotiated, the situation will rapidly deteriorate.

The surrender terms have served their every legitimate purpose. Under them "the authority of the Emperor and the Japanese Government to rule the State shall be subject to the Supreme Commander of the Allied Powers." To perpetuate that subjection which has existed for 6 years, into more years, would be to pervert the occupation into an instrument of imperialism and colonialism. The United States wants none of that, and we know that most of you want none of that.

It is time to end the subjection of the Japanese Government to Allied command. It is time to end the occupation and to recognize that, henceforth, it is the Japanese people who exercise complete sovereignty in Japan. It is time to welcome Japan as an equal and honorable member of the family of nations.

That is what the pending treaty will do.

No nation is bound to sign the treaty. This is no conference that wields legal compulsion. The only compulsion is the moral compulsion of grave circumstances. They unite to cry aloud: Let us make peace.

12. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 14, 1952 (Excerpt)[1]

. . . .

MAIN PURPOSES OF THE TREATIES

The Japanese Peace Treaty has as its principal purposes the termination of the state of war in the Far East and the restoration of Japan to the status of an independent, sovereign nation. The treaty contains provisions for such matters as security and territorial arrangements, trade and commerce, reparations, and property rights.

Accompanying the peace treaty are three collateral pacts which provide collective security arrangements for the Pacific. The first mutua defense treaty is between the United States and the Philippine Republic,[2] a second deals with security measures between the United States and Australia and New Zealand,[3] and the third is between th United States and Japan.[4] These three pacts constitute an integra part of the peace settlement in the Far East.

A. THE SETTING

1. *Background*

Since the end of fighting in World War II, international tension have mounted, with the result that peacemaking has become extremely difficult, if not impossible. In some cases, such as the abortive discussions relating to the treaties with Germany and Austria, the Sovie Union has deliberately blocked and sabotaged every major effort t bring about a settlement. The peace treaties with the former allies o Nazi Germany—Bulgaria, Finland, Italy, Hungary, and Rumania[5]— were concluded after long and laborious negotiations. Since then th U. S. S. R. has entered upon a period of complete noncooperation. I is against this background that negotiations for a peace with Japa have been carried on.

Great changes have taken place in the Pacific area since Japa signed the instrument of surrender on the battleship *Missouri*. I 1945 some of the major problems of the Allied Powers with respec to Japan were to complete the surrender of Japan's armies, take ove control of former Japanese overseas possessions, liberate areas overrun by the Japanese during the war, generally restore order, an encourage the development of democratic principles in Japan.

These original tasks have been largely accomplished during the las 6 years, but new issues have arisen, principally growing out of the surg of new-found nationalism in the area which has been coupled with a urge for self-expression and independence.

The liquidation of colonial empires in the Far East has been accompanied by the emergence of new states, the Republic of Korea, the Philippines, Indonesia, Ceylon, India, and Pakistan.[1] Behind the scenes in these countries, and even in the areas where western control still exists, such as in the Associated States of Indochina and Malaya, Soviet imperialism cloaked in the garb of national communism has been exploiting the generally unsettled economic and social conditions which follow war and the awakening of nationalism. The result is confusion and unrest in which aggression, subversion, and sabotage thrive. The Chinese Communist regime of Peiping is the main disturbing element in this regard. A free, prosperous, and democratic Japan could exert an important stabilizing influence in the Far East

Japan occupies a strategic position in the Far East; it has a large, energetic, and skilled population; it is the only industrial nation in the Far East; and it lies athwart the American defense line in the Pacific.

The committee believes that the occupation of Japan, under United States leadership, has been successful. As a result, Japan has emerged from her defeated and war-torn status to that of a nation slowly but steadily on its way to becoming self-reliant and a force for peace. Recognizing the dangers inherent in prolonged occupation, in June 1950, General MacArthur stated that—

> historically, military occupations have a maximum utility of from 3 to 5 years. Thereafter the occupation assumes the character of "colonialism," the occupation forces assume the complexion of entrenched power, and the people under occupation become restive . . .[2]

Under these circumstances, and in spite of the almost certain obstructionism of the Soviet Union, the United States initiated the discussions for a treaty of peace with Japan over a year ago.

2. *Negotiation of the treaties*[3]

The United States was given the sole responsibility of appointing a supreme commander for all the Allied Powers and directing the occupation of Japan. An obligation to bring the occupation to a timely end also fell upon the United States. To this end, the United States as early as 1947 made overtures for a peace treaty to be considered in the Far Eastern Commission. Persistent opposition from the Soviet Union, partly on the grounds that only the Council of Foreign Ministers, where the Soviet Union exercises a veto, should have jurisdiction over negotiations, successfully blocked all efforts to negotiate a treaty until the fall of 1950. At that time, the United States entered into conversations with former Allied Powers outside the Soviet orbit for the purpose of determining if, in fact, a treaty could ested delegations during the session of the United Nations Genera Assembly in New York in 1950.

Representatives of the British Commonwealth worked together t determine their individual and collective position on the basic principles of the treaty, while a mission dispatched by the President of th United States visited the capital cities of the 10 countries most directl concerned for an on-the-spot exchange of views. All recognized th importance of making peace promptly, and agreement was reached o many of the principal objectives. On January 11, 1951, the Presiden designated Mr. John Foster Dulles as his special representative, wit the personal rank of Ambassador, to conduct on behalf of the Unite States such further discussions and negotiations as would be necessar o bring to an eventual successful conclusion a Japanese peace settlement. The United States drew up the first draft of a treaty, embodying these objectives in March 1951,[1] and this was circulated amon members of the Far Eastern Commission and other nations that ha ndicated their interest, including some of Latin America. In all here was a total of 20.

An outgrowth of the conferences among the members of the Britis Commonwealth was a draft treaty prepared by the United Kingdom In June, the two drafts were combined in a text jointly agreed upo y the United States and the United Kingdom and shortly thereafte circulated among the Allied Powers including the U. S. S. R.[2] Th iddle of August was set as the deadline for incorporating changes.

Meanwhile, an exchange of treaty drafts and memoranda betwee the United States and the U. S. S. R. had formed an integral part o the negotiating process and, in addition, a number of consultation were held with the Soviet official, Jacob Malik, which subsequently however, were broken off by the Soviet Union.[3]

The United States delegation to the Japanese Peace Conference hel in San Francisco last September included a group of Senators an Congressmen. Senators Connally and Wiley were named as delegates for each of the four treaties. Alternate delegates for th Japanese Peace Treaty were Senators John J. Sparkman, H. Alexande Smith, Walter F. George, and Bourke B. Hickenlooper, and Representatives James P. Richards and Robert B. Chiperfield. Alternat delegates for the security treaties with the Philippines and with Australia and New Zealand were Senators John J. Sparkman, H. Alexande Smith, Walter F. George, and Bourke B. Hickenlooper, and Representatives Abraham A. Ribicoff and Walter H. Judd. Alternat delegates for the security treaty with Japan were Senators Richard B Russell, Styles Bridges, John J. Sparkman, and H. Alexander Smith served as observers.

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[1] The principles of the March draft were described by Mr. Dulles in his addres of Mar. 31, 1951; *ibid.*, Apr. 9, 1951, pp. 576–580.

[2] For the text of the draft treaty circulated in July 1951, see *ibid.*, July 23, 1951, pp. 132 ff.

[3] For the texts of the Soviet aide-mémoire of Nov. 20, 1950, and of the U. S aide-mémoire of Dec. 27, 1950, in reply thereto, see *ibid.*, Dec. 4, 1950, pp. 881–882 and Jan. 8, 1951, pp. 65–66. Regarding the Soviet Union's disruption o talks on a Japanese peace treaty, see the address by Mr. Dulles of Mar. 14, 1951 *ibid.*, Mar. 26, 1951, pp. 483–485.

The committee wishes to express its appreciation for the cooperative spirit in which the treaties were negotiated by the executive branch of the Government. Rarely, if ever, have committee members seen such legislative-executive teamwork as that which characterized negotiation of the treaties. The committee particularly desires to commend Ambassador Dulles for his outstanding contribution to the cause of world peace and bipartisan consultation.

Eleven months of exhaustive effort by the Allied Powers resulted in a treaty which manifested their desire for a just and lasting peace, and which manifested also a subordination of individual interests to the common good.

3. Committee action

January 12, 1951, marked the beginning of a series of meetings, nine in all, between Ambassador Dulles and members of the consultative Subcommittee on Far Eastern Affairs [1] of the Foreign Relations Committee. The meetings continued at frequent intervals throughout the spring and summer, with Ambassador Dulles keeping the subcommittee currently informed of the progress of his negotiations with the Japanese and with the former Allied Powers, until the conclusion and signature of the peace treaty and related security pacts at San Francisco in September. Moreover, on several occasions, Ambassador Dulles discussed with the full committee specific problems that arose during the process of negotiations. Committee suggestions on these problems were instrumental in determining the final text of the treaties.

Upon the reconvening of the Congress after the fall adjournment, President Truman, on January 10, 1952, submitted the treaties with his recommendation that the Senate give them "early favorable consideration." [2]

As a consequence, public hearings began on January 21,[3] with statements by Secretary of State Dean Acheson, Gen. Omar Bradley, Chairman, Joint Chiefs of Staff, and Ambassador Dulles. Ambassador Dulles returned on the following day to answer questions of committee members. Hearings continued on January 23 and 25, with private witnesses both in opposition to and support of the treaties. Among those offering testimony were representatives of various organizations as well as individuals expressing their own views. In addition, a number of statements were filed with the committee for the record.

At its executive session on February 5, the committee, by a vote of 13 to 0, agreed to report all the treaties favorably to the Senate. At that time committee members approved an interpretative statement making clear the position of the Senate with respect to the

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[1] Senators H. Alexander Smith, Bourke B. Hickenlooper, William F. Knowland, Walter F. George, and John J. Sparkman.

[2] S. Execs. A, B, C, and D, 82d Cong., 2d sess.

[3] See *Japanese Peace Treaty and Other Treaties Relating to Security in the Pacific. Hearings before the Committee on Foreign Relations, United States Senate, 82d Congress, 2d Session, . . . January 21, 22, 23, and 25, 1952* (Washington, 1952).

aty. The unanimous vote which the committee gave the four
ties reflected the close cooperation which took place between the
nmittee and the executive branch throughout the negotiations.

Jnited States aid to Japan

eginning in 1946, the Congress each year has voted funds to com-
disease and unrest in the areas occupied by the United States
tary forces and to help reconstruct the economies of the coun-
s involved. Part of these funds have been allocated to Japan in
amounts given in the following table and for the broad general
poses indicated. As the table below indicates the United States
given in the neighborhood of $2 billion in total, or an average of
r $300 million a year to help Japan with the deficit under which
economy has been operating.

he figures are as follows [Footnotes in original]:

S. GARIOA[1] aid to Japan, United States fiscal years 1946 to 1951, inclusive

[Millions]

Fiscal year	Economic aid	Reorientation program	Administrative costs	Total
. . . .	[2] $101.7	. . . .	. . . . . .	$101.7
7 [3]	278.3	$1.2	$12.2	291.7
[3]	337.7	.7	16.0	354.4
[3]	506.8	3.7	19.2	529.7
[4]	415.9	3.5	16.4	435.8
[5]	176.7	4.0	11.4	192.1
Total	1,817.1	13.1	75.2	1,905.4

overnment and relief in occupied areas.
epartment of Army funds used to procure emergency food supplies for Japan; not specified as a
RIOA" appropriation; partially estimated.
xpenditures (final).
bligations as of Oct. 31, 1951.
bligations as of Dec. 31, 1951.

TE.—The above data do not include diverted military stocks or military surplus supplies released to
apanese. A financial settlement has been made for certain of these materials and it is anticipated
a settlement covering the remainder will be negotiated with the Japanese. The fiscal year 1952
IOA appropriation did not include funds for economic aid for Japan but did include approximately
llion for the reorientation program in Japan and the administrative costs related to the occupation
pan.

Complementary agreements to be negotiated

Jnlike traditional treaties of peace—which provide for the settle-
nt of the chief areas of dispute between the contracting parties—
Japanese Peace Treaty leaves a number of important subjects for
ure negotiation. The subjects are chiefly of an economic nature,
l are discussed in section 11 (Economic Provisions) of this report,
ering particularly commercial, maritime, fishing, civil aviation,

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See the "Declaration of the United States Senate, March 20, 1952," printed
he end of the text of the treaty, *supra*, doc. 7.

with respect to the disposition of United States troops in Japan under the security treaty.[1] It was agreed by the participating parties that the Japanese Treaty should be primarily an instrument for the termination of war and for the restoration of Japanese sovereignty. The committee is pleased to note that the executive branch of the Government promptly started negotiations on the important subjects referred to above. It understands that an agreement relative to fishing between Canada, the United States, and Japan has already been drafted and initialed and is ready for signature as soon as Japan regains sovereign authority to make treaties.[2] It will also be noted in section 22 (Security Treaty Between the United States and Japan) below,[3] that satisfactory progress is being made on the administrative agreement with Japan. The committee hopes the complementary pacts with Japan will be speedily concluded.

B. THE TREATY OF PEACE WITH JAPAN

6. *Nature of the treaty*

Perhaps the most notable aspect of this treaty is that it is neither one of vengeance nor does it conform to the general pattern of postwar treaties normally imposed by the victorious upon the vanquished. It is a broad statesmanlike document which is remarkable for the self-restraint and good will of the victorious powers evidenced therein. The treaty takes into account the great culture and tradition of Japan. Furthermore it gives consideration to Japanese dignity and self-respect. The treaty is one in which Japan is given the opportunity to achieve peace and freedom while in turn it agrees to live in peace with others in a spirit of mutual respect.

7. *Brief summary of terms of Japanese Peace Treaty*

Preamble.—The preamble proclaims that the signatory powers conclude the treaty as sovereign equals; it records that Japan intends to apply for membership in the United Nations, to conform to the principles of the Charter, to strive to realize the objectives of the Declaration of Human Rights made by the United Nations General Assembly, and with respect to trade and commerce, to conform to internationally accepted fair practices.

Chapter I. State of war terminated.—Article 1 formally ends the war between Japan and the Allies and recognizes full sovereignty of the Japanese people over the Japanese home islands.

Chapter II. Territorial provisions. (See sec. 9.)—Japan renounces all title to the territories the Potsdam Conference announced were to be taken from her, namely, Korea, Formosa, the Pescadores, the Kurile Islands, South Sakhalin, the Japanese-mandated islands, Antarctica, the Spratly Islands, and the Paracel Islands. Japan agrees to concur in any United States proposal for the placing of the follow-as the administering power. The Nansei Shoto, south of 29° north latitude, including the Ryukyu and Daito Islands; Nanpo Shoto, south of Sofu Gan, including the Bonin Islands, Rosario Island, and Volcano Islands; and Parece Vela and Marcus Island. Japanese property, the property and claims of its nationals in the ceded areas, and other property dispositions are to be the subject of special arrangements. Disposition of Japanese property under occupation directives is recognized as valid, and Japanese cables connecting the homeland with the ceded territory are to be divided between the Japanese and the territory in question.

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[1] *Infra*, pp. 2406–2423.

[2] Convention of May 9, 1952 (TIAS 2786); 4 UST 380.

[3] See *infra*, pp. 893–896.

Chapter III. Security. (See sec. 10.)—Japan agrees to live peaceably and in conformity with the principles of the United Nations Charter, and to settle its disputes with other states by amicable means. In accordance with article 51 of the United Nations Charter, this promise is not construed as depriving Japan of the right of individual and collective self-defense. Occupation forces are to be withdrawn 90 days after the treaty comes into effect, and all Japanese property supplied to the occupying powers for which compensation has not been made shall be returned to Japan within the same 90 days. However, foreign troops may be stationed in Japan under appropriate bilateral and multilateral agreements. All Japanese prisoners not yet freed are to be returned to their homes.

Chapter IV. Political and economic clauses. (See sec. 11.)—In this chapter arrangements are made for the reentry into force of certain of Japan's prewar treaties and conventions. The treaty itself is based on the principle that Japan's economy should be unrestricted. Agreements dealing with commercial, fishing on the high seas, and civil ai transportation problems are to be negotiated and are not spelled out in the treaty. Pending the negotiation of these various treaties the Allies are entitled to receive most-favored-nation treatment on the basis of reciprocal privileges granted to Japan over a 4-year period.

Chapter V. Reparations, claims, and property. (See sec. 12.)—This chapter unequivocally recognizes that Japan is obligated to pay reparations for the damage and suffering it caused during the war. However, because of its limited resources, Japan is required to apply to reparations only those assets it has in surplus, namely, excess labor and unused plant facilities for the processing of raw materials. The seizure by the Allied Powers of Japanese property within their jurisdictions is validated, and Allied property confiscated in Japan is to be returned or compensation made therefor. Japanese property in neutral countries shall be turned over to the International Red Cross for the benefit of the families of former prisoners of war. Korea is recognized as independent by Japan and entitled to the Japanese property in that country. China is given the right to a treaty of peace with Japan on the same terms as the present treaty. China is also given the full benefits of the article covering reparations payments.

Chapter VI. Settlement of disputes.—Disputes over the interpretation and execution of the treaty are to be referred to the Internationa Court of Justice.

shall come into effect after Japan, and a majority of 11 specified states, including the United States, have deposited their ratifications. This procedure is outlined further below.

8. *When the treaty takes effect*

Article 23 provides that the treaty shall come into force when the instruments of ratification of Japan and of a majority of the following states including the United States have deposited their ratifications Australia, Canada, Ceylon, France, Indonesia, Kingdom of the Netherlands, New Zealand, Pakistan, the Philippines, Great Britain, and the United States. The treaty shall be in force for each subsequent ratifying state, from the date of the deposit of its ratification.

In the period before the treaty comes into force, the United States, as the principal occupying nation, will hold a special position in Japan. After ratifications are complete, however, all Allied Powers will stand on a footing of equality. The occupying forces of the Allied Powers are to be withdrawn within 90 days under the terms of article 6 That article also provides the basis for the stationing or retention o foreign armed forces on Japanese territory as the consequence o bilateral or multilateral agreements. Finally (see sec. 5), the supplementary agreements noted elsewhere in this report will each contain their own effective dates.

9. *Territorial provisions*

Chapter II makes provision for the territorial arrangements between Japan and the Allied Powers. Japan surrenders sovereignty over the territory which representatives of the great powers at the Potsdam Conference agreed should be taken from it. Article 8 of the proclamation defining the terms of the Japanese surrender adopted a Potsdam on July 26, 1945,[1] states:

> The terms of the Cairo declaration [2] shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.

Article 2 of the peace treaty states, in effect, that Japan surrenders all rights, claims, and title to all those former Japanese territories which are not a part of the four main home islands, to wit, Korea Formosa, the Pescadores, Kurile Islands, that portion of Sakhalin and the islands adjacent to it over which Japan acquired sovereignty as a consequence of the Treaty of Portsmouth of 1905,[3] the islands it held under the League of Nations Mandate System, any part of the Antarctic area, the Spratly Islands, and Paracel Islands. It is important to remember that article 2 is a renunciatory article and makes no provision for the power or powers which are to succeed Japan in the possession of and sovereignty over the ceded territory.

During the negotiation of the treaty some of the Allied Powers expressed the view that article 2 of the treaty should not only relieve indicate specifically what disposition was to be made of each of them. The committee believes, however, that this would have been an unwise course to pursue. It might have raised differences among the Allies which would have complicated and prolonged the conclusion of the peace. Under the circumstances it seems far better to have the treaty enter into force now, leaving to the future the final disposition of such areas as South Sakhalin, and the Kuriles.

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[1] *A Decade of American Foreign Policy*, pp. 49–50.

[2] Declaration of Dec. 1, 1943; *ibid.*, p. 22.

[3] *Foreign Relations of the United States, 1905*, pp. 824–828.

Committee interpretation of article 2.—Some witnesses before the committee complained that the peace treaty, in leaving the future status of South Sakhalin and the Kuriles uncertain, in effect gives validity to the Yalta agreement that sovereignty over these areas should pass to the Soviet Union.[1] The committee does not subscribe to this thesis, even though South Sakhalin and the Kuriles are now under Russian occupation. The peace treaty neither affirms nor denies the validity of Yalta in this regard. Certainly it does not in any way imply recognition of Russian sovereignty over the territories in question.

In this connection, it should be noted that the Soviet Union is not an original signatory to the treaty nor can it now accede to the treaty. It is explicit in the treaty (art. 25) that it does "not confer any rights, titles or benefits" upon any state which did not sign the treaty, and hat the right, title, and interest of Japan is not diminished or prejudiced in favor of such a nonsignatory. Consequently the Soviet Union cannot claim any rights under the treaty. Nevertheless, in order to avoid any doubt or confusion, the committee agreed that ratification by the United States should be made subject to the following statement:

> *Resolved* (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the treaty of peace with Japan, signed at San Francisco on September 8, 1951. As part of such advice and consent the Senate states that nothing the treaty contains is deemed to diminish or prejudice in favor of the Soviet Union, the right, title, and interest of Japan, or the Allied Powers as defined in said treaty, in and to South Sakhalin and its adjacent islands, the Kurile Islands, the Habomai Islands, the island of Shikotan, or any other territory, rights, or interests possessed by Japan on December 7, 1941, or to confer any right, title, or benefit therein or thereto on the Soviet Union; and also that nothing in the said treaty, or the advice and consent of the Senate to the ratification thereof, implies recognition on the part of the United States of the provisions in favor of the Soviet Union contained in the so-called Yalta agreement regarding Japan of February 11, 1945.

There remains some question as to what the Kurile Islands include, especially whether they include the Habomai Islands and Shikotan. The latter are now occupied by troops of the Soviet Union. It is the view of the United States Government that these islands are properly a part of Hokkaido and that Japan is entitled to sovereignty over them.

Some question also arose during the hearings as to the disposition of the Ryukyus which includes the important United States military base at Okinawa. It was agreed in article 3 that Japan would concur as the sole administering authority over Nansei Shoto, south of 29° north latitude (including the Ryukyu Islands and the Daito Islands), Nanpo Shoto, south of Sofu Gan (including the Bonin Islands, Rosario Island, and the Volcano Islands), and Parece Vela and Marcus Island. Pending the establishment of such a trusteeship the United States will continue to exercise jurisdiction over these territories and their inhabitants.

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[1] See the "Agreement regarding Japan" of Feb. 11, 1945; *A Decade of American Foreign Policy*, pp. 33–34.

Some question has also been raised as to the ability of Japan to support its 80,000,000 people if it is confined in the future to the four main homeland islands. The State Department pointed out the following:

> . . . A clue to the correct answer is the fact that, when Japan had a vast colonial empire into which the Japanese could freely emigrate, few did so . . . Japanese, like other people, prefer to live at home. So far as emigration is concerned, the territorial clauses of the treaty do not establish restraints greater than those which 98 percent of the Japanese people voluntarily put upon themselves.[1]

It is well to keep in mind, in this connection, that the surrender terms promised the Japanese "access to raw materials" and "participation in world trade relations." These promises can be realized only so long as the parties to the treaty make them possible. The Japanese people are industrious, inventive, and self-reliant. The conditions of the present territorial status of Japan are, the State Department assured the committee, ". . . no cause for alarm."[2]

10. *Security provisions*

Chapter III of the treaty deals with the general problem of security. Under article 5 Japan agrees to abide by the principles incorporated in article 2 of the United Nations Charter: to settle its international disputes by peaceful means; to refrain from the threat or use of force in international relations; and to render every assistance to the United Nations in any action which that organization may undertake in accordance with the provisions of the Charter. While these provisions prohibit Japan from resorting to force as an instrument of national policy, they do not deprive that country of the inherent right of individual or collective self-defense as recognized in article 51 of the United Nations Charter. In article 5 of the treaty the Allied Powers reciprocally agree to be similarly guided by article 2 of the Charter in their dealings with Japan.

Article 6 stipulates that the occupation of Japan shall end 90 days after the treaty comes into force. But granting independence to an unarmed Japan would constitute an empty gesture unless some means of protecting that independence were also assured. Consequently this same article provides that foreign armed forces may be retained or stationed in Japanese territory pursuant to agreements which may be made between Japan and one or more of the Allied Powers The terms are clear that such military forces as are stationed in Japan will have only such status as Japan chooses to grant them. This article is the base for the United States security arrangements with Japan as set forth in the security[1] treaty which accompanies the Japanese Peace Treaty.

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[1] In Ambassador Dulles' statement of Sept. 5, 1951; *supra*.

[2] *Ibid.*

In some quarters it has been argued that Japan would not voluntarily enter into security arrangements with the United States, particularly with respect to the retention of American troops on Japanese soil. Any such arrangement, the argument runs, would not be in accordance with the wishes of the Japanese people. The executive branch sampled public opinion widely in Japan and found that a large majority of the Japanese people favored a continuing security relationship with the United States. The vote in the Japanese Diet on both the peace treaty and the security pact clearly reflect this view. The committee is satisfied with these assurances.

In recommending ratification of the treaty the State Department points out[2] that in the world of 1952 it would be a fraud to grant sovereignty to Japan accompanied only with the token right of indi-idual self-defense, as was proposed by some of the negotiating powers. The security of the Pacific area is being developed on a collective basis, and any nation which would try to deny Japan the right to that collective security would be a "conniver at aggression." The security provisions of the peace treaty are consistent with the security arrangements now being built in the Pacific region, with the dignity and self-respect of the Japanese, with the interests of the United Nations, and with the objectives of Allied far-eastern policy.

The committee was interested in the question of any possible limitations on the Japanese to engage in atomic research or in the construction of atomic installations. The peace treaty does not prohibit or even refer to such research. On questioning by the committee, Ambassador Dulles indicated there was no intention to place any restriction whatsoever on Japan in this respect. Some committee members expressed the view that any such restriction would be impractical if not unwise as an interference with Japanese sovereignty Obviously, however, the United States would be very much concerned if such research turned in the direction of weapons of destruction.

11. Economic provisions

Like the rest of the treaty, chapter IV, which deals with trade and commerce, contains generous provisions with respect to Japan. No restrictions are placed upon its economy. No limitations are imposed upon its right to trade with other nations. Japan is thus given full opportunity to maintain its economy on a stable basis.

In chapter IV of the treaty it is agreed that each Allied Power will notify Japan of the prewar bilateral treaties or conventions with Japan

Convention with respect to the Turkish Straits,[1] rights as a creditor of Germany,[2] and rights under the Bank for International Settlements.[3] These are rights which accrued to Japan as a victorious power in World War I. In addition, Japan renounces any special interests and rights in China, including such benefits and privileges as were conferred upon it by the protocol terminating the Boxer Rebellion signed at Peiping September 7, 1901.[4]

An important segment of Japan's economy is fishing on the high seas, an occupation pursued by many Japanese. Prior to the Second World War a number of controversies over fishing rights arose between Japan and other fishing countries, especially the United States and Canada. Under article 9 of the peace treaty Japan agrees to negotiate with the interested Allied Powers bilateral and multilateral agreements governing fishing and the conservation of fish in the high seas.

Another economic problem dealt with in chapter IV of the treaty is trade. In addition to the most-favored-nation treatment referred to above, Japan agrees for the 4-year period mentioned to conduct its trade on an individual competitive basis and to make all external purchases and sales of Japan state enterprises, solely on a commercial basis. It also declares its readiness to enter promptly into the negotiation of treaties with the Allied Powers, placing trade, maritime and other commercial relations on a stable and friendly basis. These are important commitments, if one recalls that Japan was making substantial inroads upon British and American trade in the pre-World War II period.

Another important commitment contained in the treaty is that Japan will enter into negotiations with the Allied Powers in order to reach agreement covering civil aviation. Again in this respect Japan promises to accord the Allied Powers and their nationals most-favored-nation treatment with regard to traffic rights and privileges and complete equality of opportunity in the operation and development of their air services.

These are liberal clauses. They promise Japan a real opportunity for economic recovery, provided it lives up to its announced intention in the preamble of conforming to internationally accepted fai practices and provided also that the Allied Powers accord to Japan in their domestic legislation the opportunities and possibilities of a reasonable trade, thus giving Japan a chance to meet its own domestic requirements.

12. Reparations and debts

One of the most complicated and difficult problems relating to the Japanese peace settlement centers about the matter of reparations During the war Japan inflicted damages upon persons and property that ran into many billions of dollars. It is estimated that the claims

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[1] League of Nations Treaty Series, vol. 173, pp. 213 ff.

[2] *British and Foreign State Papers*, vol. 132, pp. 411 ff.

[3] *Ibid.*, pp. 525–538.

[4] Treaty Series 397.

billion. The problem confronting those who negotiated the
y, therefore, was to devise a formula that would make possible
ettlement of some of these claims within Japan's capacity to pay
e still maintaining a viable economy.

rticle 14 (a) contains the unequivocal provision that Japan should
reparations to the Allied Powers for the damage and suffering
used during the war. At the same time article 14 (b) states that,
pt as otherwise provided, the Allied Powers waive all reparations
claims against Japan.

hese two sections recognize the limited Japanese economic capa-
es with that country's resources reduced by the treaty to those
e four home islands. They respond to the fact that Japan has
unable during the period of occupation to meet the food and raw
rials requirements of its economy by about $2 billion, which
it the United States has made good. Obviously insistence upon
payment of reparations in any proportion commensurate with
claims of the injured countries and their nationals would wreck
n's economy, dissipate any credit that it may possess at present,
oy the initiative of its people, and create misery and chaos in
h the seeds of discontent and communism would flourish. In
t, insistence upon the payment of claims for reparations in any
tantial amount would be contrary to the basic purposes and
y of the free nations, the Allied Powers, and the United States
articular. It should be emphasized, however, that Japan agrees
ay such reparations as she can shoulder.

present Japan has an industrial capacity which is not fully
loyed. Some of this capacity can be used to process raw materials
h are possessed in abundance by several of the countries with
rations claims against Japan. Japan in addition possesses a
tantial number of unemployed. These two elements combined
be utilized to make some restitution for war damages. The
y, therefore, provides that Japan shall enter into negotiations
those Allied Powers which it occupied and damaged in order to
e available the services of the Japanese people in production,
aging, and other work. Japan can, therefore, make some small
sure of restitution for the damage it has done.

he committee, while fully sympathetic with the claims of such
tries as Indonesia and the Philippines, believes that the repara-
s provisions of the treaty are eminently fair. Past experience
nstrates that these countries stand a better chance of collecting
ortion of their claims than they would if the treaty imposed
rations far beyond Japan's capacity to pay. In this connection
ould be noted that where the manufacturing of raw materials is
d for, they are to be supplied by the Allied Powers in question, so
ot to throw any foreign-exchange burden upon Japan.

pan also agrees that its property in neutral and ex-enemy coun-
shall be transferred to the International Red Cross to be used
the benefit of former prisoners of war and their families. The
ose of this provision is to distribute these funds on an equitable

suffered by individual soldiers as a result of the Japanese violations of the Geneva conventions relating to prisoners of war. The United States has indicated that because our own citizens, who suffered as prisoners of war under the Japanese, have already received some compensation out of Japanese assets, equity dictates that comparable indemnification shall first be made to the citizens of other countries, before further compensation is made to Americans.

Allied property in Japan is to be returned and, where this cannot be done for practical reasons, compensation will be paid in blocked yen. Japanese legislation to that effect is now pending in the Diet.

13. Damage suffered by United States citizens

Witnesses, representing several types of American claimants against Japan, appeared before the committee to point out that adequate provision had not been made for the compensation of American citizens who had suffered damage and injury from Japanese actions during the war. The main examples cited were the confiscation of private bank accounts of servicemen in the Philippines and the seizure of property in China.

The committee is, of course, much concerned that just compensation be secured in deserving cases. As a result of committee interrogation, and pursuant to the study of memoranda filed by the State Department, it now appears that the total of potential claims (as noted in the section above) against Japan is in an amount well in excess of $100 billion. This amount, of course, includes the claims of all our allies as well as our own. It would obviously be impossible for Japan to pay more than a very small fraction of such a huge amount; nor could American claimants expect preferential treatment.

In determining how to handle the problem of claims, the negotiators agreed upon the following basic principles:

1. Adequate compensation by Japan is impossible;
2. Japan should make such compensation both in form and amount as are feasible;
3. Reparations for war losses is a governmental matter to be settled between governments; and
4. It is the duty and responsibility of each government to provide such compensation for persons under its protection as that government deems fair and equitable, such compensation to be paid out of reparations that may be received from Japan or from other sources.

Because of the limited ability of Japan to pay its legitimate claims our allies in the treaty waive their claims and those of their nationals in the same way that we do. There are, however, certain compensations provided for in the treaty. Japan agrees to negotiate with the Allied Powers to provide services—mainly by way of labor and plant facilities—wherever possible as reparations. Article 14 (a) 2 authorizes the Allied Powers to retain and use for reparation purposes Japanese public and private property subject to their jurisdiction. Article 15 returns Allied property within Japan to the owners countries to the International Red Cross.

These provisions do not give a direct right of return to individual claimants except in the case of those having property in Japan. As representatives of the executive branch pointed out, individual remedies must be provided elsewhere.

Japanese property vested by this country as of October 1, 1951 is approximately $84 million. Certain debt claims of United States citizens and others are still payable under the Trading With the Enemy Act.[1] All in all the Office of the Alien Property Custodian has turned over $120 million to the War Claims Commission, of which amount the latter has paid out $52 million under the War Claims Act.[2] This leaves a substantial amount available subject to allocation by the Congress.

In its memorandum of January 31, 1952, to the committee, the State Department said that—

> Allied Powers in whose territory United States nationals sustained property losses may make such United States nationals eligible to receive such compensation as they are able to provide for war losses. It does not appear, however, that American nationals who sustained losses in the territories of any of the Allied Powers can expect to receive compensation commensurate with their losses. Accordingly, United States nationals, whose claims are not covered by the treaty provisions or by the legislation of other Allied Powers, must look for relief to the Congress of the United States.
>
> Congress has provided that the proceeds of the liquidation of Japanese assets in the United States are to be paid into a trust fund in the United States Treasury known as the war claims fund, which is available for the payment of war claims as provided by the War Claims Act of 1948 (Public Law 896, 80th Cong., 2d sess.), as amended.[3]

The War Claims Commission has recommended to the Congress that its powers be extended to include payment of claims resulting from damages caused by the illegal actions of enemy powers during World War II. If these recommendations are enacted into law, they will serve to meet in part, at least, some of the many and varied claims of American citizens against Japan.

14. The peace treaty and Korea

While the Japanese Peace Treaty intimately affects Korea in many ways, it contains only brief references to that country. The most important is found in article 2, in which Japan recognizes the independence of Korea. The most extensive is found in article 21, which states that Korea is to enjoy the benefits of articles 2, 4, 9, and 12 of the treaty. The latter provisions place Korea on a parity with the Allied Powers with regard to postwar trading, fishing, commercial, and maritime arrangements. Thus, even though Korea is not a signatory of the treaty, it is to all intents and purposes a treaty power.

Korea was acquired by Japan early in the twentieth century and independence but when the war came to an end the arrangements for receiving the surrender of the Japanese soldiers split the country along the thirty-eighth parallel. Since then Korea has at no time been united, and at the present moment it is overrun with military forces as a result of the aggression launched upon South Korea in June 1950.

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[1] Act of Oct. 6, 1917; 40 Stat. 411–426.

[2] Act of July 3, 1948; 62 Stat., pt. 1, p. 1240.

[3] *Japanese Peace Treaty and Other Treaties Relating to Security in the Pacific: Hearings Before the Committee on Foreign Relations, United States Senate, Eighty-second Congress, Second Session*, p. 147.

The Japanese Peace Treaty is an expression of the Allied Powers that they seek to make good their promise of freedom and independence for Korea, and that they agree to assist the United Nations in suppressing the aggression against the Republic of Korea. Japan in her commitments both in the peace treaty and in the security pact, as well as in the exchange of the Acheson-Yoshida notes,[2] agrees to continue to assist the United Nations in its efforts to suppress aggression in that country.

Finally, Japan surrenders to the Republic of Korea the very considerable property of Japan in Korea.

15. *Relation of Japan to Nationalist and Communist China*

In visualizing the future role of Japan in the Far East it is, of course, important to know the intention of the Japanese Government with respect to the National Government of China and the Chinese Communist regime. In a letter written to Ambassador Dulles on December 24, 1951, Prime Minister Yoshida expressed the desire of his Government to conclude as soon as legally possible a treaty with the National Government so that normal relations could be restored between the two Governments. At the same time he outlined the various hostile acts which have been committed against Japan by the Communist regime in China and which make treaty relations with that regime impossible. The committee believes the Yoshida letter—even though it is not a formal agreement—constitutes a clear-cut statement of Japan's determination not to recognize the Communist regime under existing circumstances. Pertinent excerpts from the Prime Minister's letter (which is printed in full on p. 9 of the committee hearings) are reproduced here for the information of the Senate:

> The Japanese Government desires ultimately to have a full measure of political peace and commercial intercourse with China which is Japan's close neighbor . . .
>
> My Government is prepared as soon as legally possible to conclude with the National Government of China, if that Government so desires, a treaty which will reestablish normal relations between the two Governments in conformity with the principles set out in the multilateral treaty of peace. The terms of such bilateral treaty shall, in respect of the Republic of China, be applicable to all territories which are now, or which may hereafter be, under the control of the National Government of the Republic of China. We will promptly explore this subject with the National Government of China.
>
> As regards the Chinese Communist regime, that regime stands actually condemned by the United Nations of being an aggressor[3] and, in consequence, the United Nations has recommended certain measures against that regime, in which

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[1] Declaration of Dec. 1, 1943; *A Decade of American Foreign Policy*, p. 22.

[2] *Infra*, p. 896.

[3] General Assembly Res. 498 (V), Feb. 1, 1951; *infra*, pp. 2608–2609.

> Japan is now concurring and expects to continue to concur. . . . Furthermore, the Sino-Soviet Treaty of Friendship, Alliance, and Mutual Assistanc concluded in Moscow in 1950[1] is virtually a military alliance aimed against Japan In fact there are many reasons to believe that the Communist regime in China i backing the Japan Communist Party in its program of seeking violently to overthrow the constitutional system and the present Government of Japan. In vie of these considerations, I can assure you that the Japanese Government has n intention to conclude a bilateral treaty with the Communist regime of China.

16. *Japan's trade with the Soviet bloc*

Japan's controls over exports of strategic materials to the Sovie bloc are more restrictive than similar controls imposed by othe nations of the free world with the exception of Canada and the Unite States. Although these controls were imposed initially by the Japanese Government at the direction of SCAP,[2] responsibility fo administration of the control system is being rapidly turned over t the Japanese Government. Upon the coming into force of the treaty, the determination of export-control policies will, of course, be the sole responsibility of the Japanese.

It is impossible to state definitely at this time what degree of controls on the export of strategic materials to Communist countries wil be maintained by the Japanese Government in the post-treaty period. There is every reason to believe, however, that the Japanese Government will continue to cooperate with the other nations of the free worl in maintaining such controls as long as the necessity for them exists On two recent occasions Prime Minister Yoshida has expressed officially the willingness of his Government to cooperate with the fre world in this regard. In responding to the United Nations Genera Assembly resolution of May 18, 1951,[3] which called for action b governments to embargo the shipments of certain military and strategic items to Communist China, the Prime Minister voluntaril replied that his Government was imposing restrictions on trade wit China which met the requirements of the U. N. resolution and that i carrying out the purposes of the United Nations embargo his Government was prepared to consult on the matter with other cooperatin countries. Referring to the United Nations embargo, Mr. Yoshid stated in his letter to Mr. Dulles of December 24, 1951:

> As regards the Chinese Communist regime, that regime stands actually con demned by the United Nations of being an aggressor and, in consequence, th United Nations has recommended certain measures against that regime, in whic Japan is now concurring and expects to continue to concur when the multilatera treaty of peace comes into force . . .

On January 17, 1952, Mr. Yoshida stated in a note to Secretar Acheson that his Government was cooperating with the United State policy with respect to export controls as set forth in Public Law 213 this act provides for the cessation of United States military, economic, and financial aid to countries which export strategic materials, arms, ammunitions, and implements of war, petroleum, and items of strategic significance to nations threatening the security of the United States. Accordingly, Japan would suffer the loss of United States aid as the result of exporting any such materials to Communist-dominated countries.

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[1] *Infra*, pp. 2463–2465.

[2] Supreme Commander, Allied Powers.

[3] Res. 500 (V); *infra.*, pp. 2614–2615.

In view of these and other indications that the Japanese Government intends to cooperate with the United Nations and the United States, the committee feels that it is reasonable to assume that Japan can be relied upon to continue to cooperate with other governments in restricting exports of strategic and military goods to Communist China and other parts of the Soviet bloc after the coming into force of the peace treaty.

17. Attitude of the U. S. S. R. toward the Japanese Peace Treaty

Although the U. S. S. R. sent a delegation to the San Francisco Conference in September 1951,[2] neither the U. S. S. R. nor any of its satellites joined with representatives of the other nations to give generous support to an instrument designed to readmit Japan to its proper place in the family of nations. It became obvious, as the conference progressed, that the Soviet delegates were intent upon doing everything possible to sabotage the conclusion of a satisfactory treaty.

Among the arguments advanced by the U. S. S. R. in opposition was the charge that the treaty does not provide for guaranties against the rebirth of militarism in Japan in such a way that a repetition of Japanese aggression would not be possible. Effective guaranties could only be assured, declared the U. S. S. R., by restrictions on the size of the various components of the Japanese armed forces.

The U. S. S. R. further took the position that the treaty should contain assurances that the territory of Japan would not be used to maintain foreign military bases. It argued that without such specific assurances the treaty does not serve the purpose of reestablishing Japan's sovereignty and, in fact, "contradicts the interests of the maintenance of peace in the Far East."

The Soviet delegate also complained of undue leniency in dealing with the subject of Japanese reparations.

With respect to territorial questions, the Soviet Union strongly urged that Formosa, the Pescadores, the Paracel Islands, and other territories wrested from China by the Japanese should be turned over to the present Communist Chinese Government. The U. S. S. R., itself, laid claim to South Sakhalin and adjacent islands, as well as to the Kurile Islands, but rejected the provisions making possible future United States trusteeship over the islands of Ryukyu, Bonin, Rosario, Volcano, Parece Vela, Marcus, and Daito, which were severed from the Japanese empire after World War II.

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[1] Act of Oct. 26, 1951; *infra*, pp. 3101–3105.

[2] See *Conference for the Conclusion and Signature of the Treaty of Peace with Japan, San Francisco, September 4–8, 1951* (Department of State publication 4392; 1951).

The Soviet bloc repeated over and over that because the Communist Chinese Government was not represented at the Conference the United States had proceeded in an unlawful manner to negotiate a peace settlement. The delegate from Poland later joined in making this same charge. He further asserted that the United States had acted in violation of the January 1, 1942, declaration by the United Nations,[1] pledging each signatory government not to make a separate armistice or peace with the enemies.

The Soviet bloc leveled other vituperative charges against the treaty, some of which sound plausible on the surface. Most of these arguments were directed against the United States.

It is interesting to note that of all the 51 Allied delegations represented at the Peace Conference, those of the Soviet bloc alone failed to sign the treaty.

18. *Relation of treaty to the Universal Declaration of Human Rights*

During the hearings questions were raised about that part of the preamble in which Japan states the intention "to strive to realize the objectives of the Universal Declaration of Human Rights."[2]

In the peace treaties with the European satellites of Nazi Germany, special articles guaranteeing human rights were inserted in the operating clauses of those treaties. However, it is now clear that such rights are difficult to enforce. In spite of this difficulty, it appeared desirable to record Japan's good intentions to respect human rights. Because it has no legal binding effect the preamble was deemed to be the most appropriate place for such a statement. Since almost all nations outside the Soviet bloc have accepted the universal declaration of human rights as a worthy statement of objectives, the Japanese people wished to be in the same category. It seemed only equitable to permit Japan to make the kind of statement of intent that it wanted and that other free nations have made.

The committee wishes to make clear that there is nothing in the treaty that makes human rights a matter of international contract, nor which gives any Allied nation the right to interfere in Japanese internal affairs in order to enforce such rights.

The committee also wishes to make emphatically clear that the United States in ratifying the treaty in no way undertakes any commitment with respect to human rights. The statement in the preamble is a unilateral Japanese announcement. It is not even a commitment for Japan, much less so for the United States.

19. *The question of "belligerent rights" of the Soviet Union and Communist China in Japan*

still at war with Japan and that such occupation will be merely an exercise of a belligerent right?

The Department of State, in a memorandum to the committee,[1] replied that this matter has been given thorough consideration over the past few years. The Department believes that any risk of Soviet or Red Chinese military action in Japan is neither increased nor diminished by purely legalistic considerations. If military action is taken, it will be for other than legal reasons. Of course legal pretext can always be invented to support any action which these Governments might elect to embark on.

The committee agrees with the Department that any right of unilateral occupation will not exist after the treaty comes into force. The Potsdam surrender terms of July 26, 1945,[2] to which the Soviet Union later adhered, provided for a single "allied" occupation—not for separate and independent allied occupations—to end with the achievement of certain stated objectives described by article 7 of those surrender terms as follows:

> Until such a new order is established and until there is convincing proof that Japan's war-making power is destroyed, points in Japanese territory to be designated by the Allies shall be occupied to secure the achievement of the basic objectives we are here setting forth.

Article 12 of the Potsdam terms provides:

> The occupying force of the Allies shall be withdrawn from Japan as soon as these objectives have been accomplished and there has been established in accordance with the freely expressed will of the Japanese people a peacefully inclined and responsible government.

Clearly the Japanese Peace Treaty, having been signed by 48 Allied nations, is conclusive evidence that the objectives set forth in article 7 of the surrender terms in the Potsdam agreement have been attained. Furthermore it is equally clear that Japan now has a Government established in accordance with the freely expressed will of the Japanese people; that this Government is peacefully inclined; and that it is a responsible Government. Under such circumstances, since occupation is a collective right and the objectives of the occupation have been obtained, the withdrawal of the occupation forces of the Allies is in order.

Any effort on the part of any single power to occupy Japan in pursuit of what it might elect to describe as belligerent rights would be a unilateral action in direct violation of the Potsdam surrender terms especially if undertaken by the Soviet Union, which adhered to the Potsdam agreement.

It is not without some bearing on this subject, that article 2 of the security treaty[3] provides that—

or maneuver, or transit of ground, air, or naval forces to any third power.

Under these commitments Japan would be obligated to oppose any Soviet or Chinese effort of the kind described above. This woul immediately bring into play the whole far-eastern security arrangement to which the United States and several other countries are now parties. Therefore not only legally are the Soviet Union and China barred from undertaking any unilateral occupation of any part o Japan, but, if they do so, that act will be open aggression of the broadest and boldest kind—an aggression which would only be undertaken if the aggressor is willing to assume the consequences of starting world war III.

Restoration of Sovereignty to the Federal Republic of Germany

13. PROTOCOL ON THE TERMINATION OF THE OCCUPATION REGIME IN THE FEDERAL REPUBLIC OF GERMANY (PARIS PROTOCOL), OCTOBER 23, 1954 [1]

The United States of America, the United Kingdom of Great Britain and Northern Ireland, the French Republic and the Federal Republic of Germany agree as follows:

ARTICLE 1

The Convention on Relations between the Three Powers and the Federal Republic of Germany,[2] the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany,[3] the Finance Convention,[4] the Convention on the Settlement of Matters arising out of the War and the Occupation signed at Bonn on 26 May 1952,[5] the Protocol signed at Bonn on 27 June 1952 to correct certain textual errors in the aforementioned Conventions,[6] and the Agreement on the Tax Treatment of the Forces and their Members signed at Bonn on 26 May 1952,[7] as amended by the Protocol signed at Bonn on 26 July 1952, shall be amended in ac-

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[1] *The Bonn Agreements of 1952 as Amended by the Paris Protocol of 1954* (S Doc. No. 11, 84th Cong., 1st sess.), pp. 1–2. Ratification advised by the Senate Apr. 1, 1955; ratified by the President Apr. 7, 1955; entered into force May 5, 1955

[2] S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

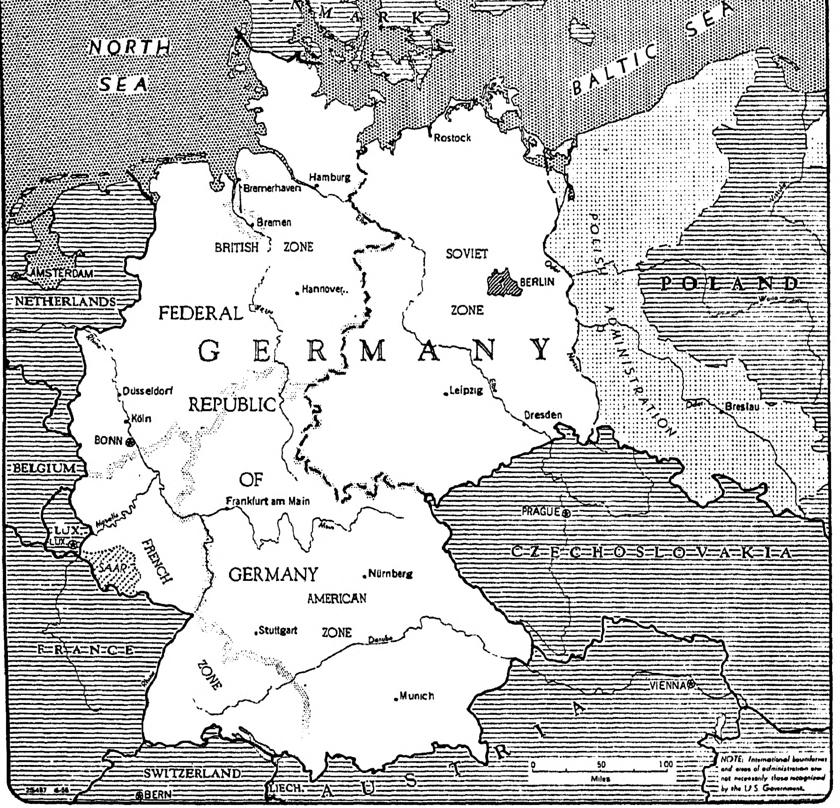
[3] *Ibid.*, pp. 89–133.

[4] *Ibid.*, pp. 135–150.

[5] *Ibid.*, pp. 25–88.

[6] The text of the corrective Protocol of June 27, 1952, is not printed *ibid.* the corrigenda it effected are printed at the head of each of the conventions.

[7] *Ibid.*, pp. 131–133.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cordance with the five Schedules to the present Protocol[1] and as so amended shall enter into force (together with subsidiary documents agreed by the Signatory States relating to any of the aforementioned instruments) simultaneously with it.

ARTICLE 2

Pending the entry into force of the arrangements for the German Defense Contribution,[2] the following provisions shall apply:

(1) The rights heretofore held or exercised by the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic relating to the fields of disarma-

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[1] The Schedules as such are not reprinted here; instead, see *infra* for texts o the Bonn Agreements of 1952 as amended by these Schedules to the Paris Protoco of 1954.

[2] See the Protocol of Oct. 23, 1954, to the North Atlantic Treaty and the Protocol of this same date to the Brussels Treaty; *infra*, pp. 871–873 and 972–989 See also the Final Act of the London Conference, Oct. 3, 1954; *infra*, pp. 1474–1491

ment and demilitarisation shall be retained and exercised by them and nothing in any of the instruments mentioned in Article 1 o the present Protocol shall authorize the enactment, amendment repeal or deprivation of effect of legislation or, subject to the provisions of paragraph (2) of this Article, executive action in thos fields by any other authority.

(2) On the entry into force of the present Protocol, the Military Security Board [1] shall be abolished (without prejudice to th validity of any action or decisions taken by it) and the control in the fields of disarmament and demilitarisation shall thereafte be applied by a Joint Four-Power Commission to which each o the Signatory States shall appoint one representative and whic shall take its decisions by majority vote of the four members.

(3) The Governments of the Signatory States will conclude a administrative agreement which shall provide, in conformity wit the provisions of this Article, for the establishment of the Join Four-Power Commission and its staff and for the organisation o the work.

ARTICLE 3

1. The present Protocol shall be ratified or approved by the Signatory States in accordance with their respective constitutional procedures. The Instruments of Ratification or Approval shall be deposited by the Signatory States with the Government of the Federa Republic of Germany.

2. The present Protocol and subsidiary documents relating to i agreed between the Signatory States shall enter into force upon th deposit by all the Signatory States of the Instruments of Ratificatio or Approval as provided in paragraph 1 of this Article.[2]

3. The present Protocol shall be deposited in the Archives of th Government of the Federal Republic of Germany, which will furnis each Signatory State with certified copies thereof and notify eac State of the date of entry into force of the present Protocol.

In Faith Whereof the undersigned Representatives duly authorized thereto have signed the present Protocol.

Done at Paris this 23rd day of October, 1954, in three texts, i the English, French and German languages, all being equall authentic.

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[1] The Military Security Board was established Jan. 17, 1949, by a three-powe directive of that date (*Germany, 1947–1949: The Story in Documents* (Departmen of State publication 3556; 1950), pp. 103–105) in pursuance of decisions take and included in the communiqué of the London Conference, dated Dec. 28, 194 (*ibid.*, pp. 332–343).

[2] The instruments of ratification of the United States and of the Federa Republic of Germany were deposited Apr. 20, 1955; those of the United Kingdo and of France, May 5, 1955.

MAY 26, 1952, AS AMENDED BY SCHEDULE I PROTOCOL ON THE TERMINATION OF THE OCC REGIME IN THE FEDERAL REPUBLIC OF G OCTOBER 23, 1954[1]

The United States of America,
The United Kingdom of Great Britain and Norther
The French Republic
and
The Federal Republic of Germany

Have entered into the following Convention setting fort for their new relationship:

ARTICLE 1

1. On the entry into force of the present Convention States of America, the United Kingdom of Great Britain an Ireland and the French Republic (hereinafter and in the r ventions sometimes referred to as "the Three Powers") wi the Occupation regime in the Federal Republic, revoke the Statute[2] and abolish the Allied High Commission and of the Land Commissioners in the Federal Republic.[3]

2. The Federal Republic shall have accordingly the fu of a sovereign State over its internal and external affairs.

ARTICLE 2

In view of the international situation, which has so fa the reunification of Germany and the conclusion of a peace the Three Powers retain the rights and the responsibilities exercised or held by them, relating to Berlin and to Ge whole, including the reunification of Germany and a peace The rights and responsibilities retained by the Three Pow to the stationing of armed forces in Germany and the p their security are dealt with in Articles 4 and 5 of the p vention.

ARTICLE 3

1. The Federal Republic agrees to conduct its policy in with the principles set forth in the Charter of the United with the aims defined in the Statute of the Council of E

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[1] *The Bonn Agreements of 1952 as Amended by the Paris Protoc* Doc. No. 11, 84th Cong., 1st sess.), pp. 129–140. For the 1952 te vention, see *Convention on Relations with the Federal Republic of* (S. Execs. Q and R, 82d Cong., 2d sess.), pp. 9–22.

[2] Statute of Apr. 8, 1949; *A Decade of American Foreign Policy*,

[3] The Allied High Commission and the Offices of the Land were established in the charter of the Allied High Commission, *Germany, 1947–1949: The Story in Documents* (Department of Sta 3556; 1950), pp. 92–97.

[4] Statute of May 5, 1949, as amended; *infra*, pp. 1001–1012.

fully with the community of free nations through membership in international organizations contributing to the common aims of the free world. The Three Powers will support applications for such membership by the Federal Republic at appropriate times.

3. In their negotiations with States with which the Federal Republic maintains no relations, the Three Powers will consult with the Federal Republic in respect of matters directly involving its political interests.

4. At the request of the Federal Government, the Three Powers will arrange to represent the interests of the Federal Republic in relations with other States and in certain international organizations r conferences, whenever the Federal Republic is not in a position to do so itself.

ARTICLE 4

1. Pending the entry into force of the arrangements for the German Defence Contribution,[1] the Three Powers retain the rights, heretofore exercised or held by them, relating to the stationing of armed forces in the Federal Republic. The mission of these forces will be the defence of the free world, of which Berlin and the Federal Republic form part. Subject to the provisions of paragraph 2 of Article 5 of the present Convention, the rights and obligations of these forces shall be governed by the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany[2] (hereinafter referred to as "the Forces Convention") referred to in paragraph 1 of Article 8 of the present Convention.

2. The rights of the Three Powers, heretofore exercised or held by them, which relate to the stationing of armed forces in Germany and which are retained, are not affected by the provisions of this Article insofar as they are required for the exercise of the rights referred to in the first sentence of Article 2 of the present Convention. The Federal Republic agrees that, from the entry into force of the arrangements for the German Defence Contribution, forces of the same nationality and effective strength as at that time may be stationed in the Federal Republic. In view of the status of the Federal Republic as defined in Article 1, paragraph 2 of the present Convention and in view of the fact that the Three Powers do not desire to exercise their rights regarding the stationing of armed forces in the Federal Republic insofar as it is concerned, except in full accord with the Federal Republic, a separate Convention deals with this matter.[3]

ARTICLE 5

1. Pending the entry into force of the arrangements for the German Defence Contribution, the following provisions shall be applicable to the forces stationed in the Federal Republic:

(a) The Three Powers will consult with the Federal Republic insofar as the military situation permits, with regard to all ques-

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[1] See the Protocols of Oct. 23, 1954, to the North Atlantic Treaty and to the Brussels Treaty; *infra*, pp. 871–873 and 972–989.

[2] Convention of May 26, 1952, as amended by protocol of Oct. 23, 1954; *infra*

Republic will, according to the present Convention and the related Conventions, co-operate, within the framework of its Basic Law,[1] to facilitate the mission of these forces;

(b) The Three Powers will obtain the consent of the Federal Republic before bringing into the Federal territory, as part of their forces, contingents of the armed forces of any nation not now providing such contingents. Such contingents may nevertheless be brought into the Federal territory without the consent of the Federal Republic in the event of external attack or imminent threat of such attack, but, after the elimination of the danger, may only remain with its consent.

2. The rights of the Three Powers, heretofore held or exercised by them, which relate to the protection of the security of armed forces stationed in the Federal Republic and which are temporarily retained, shall lapse when the appropriate German authorities have obtained similar powers under German legislation enabling them to take effective action to protect the security of those forces, including the ability to deal with a serious disturbance of public security and order. To the extent that such rights continue to be exercisable they shall be exercised only after consultation, insofar as the military situation does not preclude such consultation, with the Federal Government and with its agreement that the circumstances require such exercise. In all other respects the protection of the security of those forces shall be governed by the Forces Convention or by the provisions of the Agreement which replaces it and, except as otherwise provided in any applicable agreement, by German law.

ARTICLE 6

1. The Three Powers will consult with the Federal Republic in regard to the exercise of their rights relating to Berlin.

2. The Federal Republic, on its part, will co-operate with the Three Powers in order to facilitate the discharge of their responsibilities with regard to Berlin.

ARTICLE 7

1. The Signatory States are agreed that an essential aim of their common policy is a peace settlement for the whole of Germany, freely negotiated between Germany and her former enemies, which should lay the foundation for a lasting peace. They further agree that the final determination of the boundaries of Germany must await such settlement.

2. Pending the peace settlement, the Signatory States will co-operate to achieve, by peaceful means, their common aim of a reunified Germany enjoying a liberal-democratic constitution, like that of the Federal Republic, and integrated within the European community.

3. [Deleted.]

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[1] *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 283–305.

matters involving the exercise of their rights relating to Germany as a whole.

ARTICLE 8

1. (a) The Signatory States have concluded the following related Conventions:

Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany;[1]
Finance Convention;[2]
Convention on the Settlement of Matters Arising out of the War and the Occupation.[3]

(b) The Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany and the Agreement on Tax Treatment of the Forces and their Members signed at Bonn on 26 May 1952, as amended by the Protocol signed at Bonn on 26 July 1952,[4] shall remain in force until the entry into force of new arrangements setting forth the rights and obligations of the forces of the Three Powers and other States having forces in the territory of the Federal Republic. The new arrangements will be based on the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of their Forces, signed at London on 19 June 1951,[5] supplemented by such provisions as are necessary in view of the special conditions existing in regard to the forces stationed in the Federal Republic.

(c) The Finance Convention shall remain in force until the entry into force of the new arrangements negotiated in pursuance of paragraph 4 of Article 4 of that Convention with other member Governments of the North Atlantic Treaty Organization who have forces stationed in the Federal territory.

2. During the transitional period provided for in paragraph 4 of Article 6 of Chapter One of the Convention on the Settlement of Matters Arising out of the War and the Occupation, the rights of the three Signatory States referred to in that paragraph shall be retained.

ARTICLE 9

1. There shall be established an Arbitration Tribunal which shall function in accordance with the provisions of the annexed Charter.

2. The Arbitration Tribunal shall have exclusive jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the present Convention or the annexed Charter or any of the related Conventions which the parties are not able to settle by negotiation or by other means agreed between all the Signatory States, except as otherwise provided by paragraph 3 of this Article or in the annexed Charter or in the related Conventions.

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[1] *Infra.*

[2] *Infra*, pp. 539–556.

[3] *Infra*, pp. 557–607.

[4] *Infra*, pp. 607–610.

[5] *Infra*, pp.

to in Article 2, the first two sentences of paragraph 1 of Article 4, the first sentence of paragraph 2 of Article 4 and the first two sentences of paragraph 2 of Article 5, or action taken thereunder, shall not be subject to the jurisdiction of the Arbitration Tribunal or of any other tribunal or court.

ARTICLE 10

The Signatory States will review the terms of the present Convention and the related Conventions

(a) upon request of any one of them, in the event of the reunification of Germany, or an international understanding being reached with the participation or consent of the States parties to the present Convention on steps towards bringing about the reunification of Germany, or the creation of a European Federation; or

(b) in any situation which all of the Signatory States recognize has resulted from a change of a fundamental character in the conditions prevailing at the time of the entry into force of the present Convention.

In either case they will, by mutual agreement, modify the present Convention and the related Conventions to the extent made necessary or advisable by the fundamental change in the situation.

ARTICLE 11

1. [Deleted.]
2. [Deleted.]
3. The present Convention and the related Conventions shall be deposited in the Archives of the Government of the Federal Republic of Germany, which will furnish each Signatory State with certified copies thereof and notify each such State of the date of the entry into force of the present Convention [1] and the related Conventions.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention.

Done at BONN this twenty-sixth day of May, 1952, in three texts, in the English, French and German languages, all being equally authentic.

. . . .

ANNEX A

DECLARATION OF THE FEDERAL REPUBLIC OF GERMANY ON AID TO BERLIN, MAY 26, 1952

[*Deleted by Schedule I to the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, Oct. 23, 1954; for text of Declaration, see S. Execs. Q and R, 82d Cong., 2d sess., pp. 14–15.*]

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[1] The convention entered into force simultaneously with the Protocol on the Termination of the Occupation Regime, May 5, 1955, in accordance with article 1 of the Protocol.

CHARTER OF THE ARBITRATION TRIBUNAL, MAY 26 1952, AS AMENDED BY SCHEDULE I TO THE PROTOCOL ON THE TERMINATION OF THE OCCUPATION REGIME IN THE FEDERAL REPUBLIC OF GERMANY, OCTOBER 23, 1954[1]

PART I—COMPOSITION, ORGANISATION AND SEAT OF THE TRIBUNAL

ARTICLE 1

1. The Tribunal shall be composed of nine members who shall have the qualifications required in their respective countries for appointment to the highest judicial offices or shall be lawyers of recognized competence in international law.

2. The nine members of the Tribunal shall be appointed as follows

(a) Three members appointed by the Governments of the Three Powers, one by each Government;

(b) Three members appointed by the Federal Government;

(c) A President and two Vice-Presidents (hereinafter referred to also as "the neutral members") appointed by agreement between the Governments of the Three Powers and the Federa Government, none of whom shall be a national of any one of the Three Powers or a German national.

3. The Governments of the Three Powers and the Federal Government shall make known their first appointments not later than sixty days after the entry into force of the present Charter.[2] Within the same period the Governments of the Three Powers and the Federa Government shall agree upon the three neutral members, one of whom shall be nominated as President and the other two as Vice-Presidents If, after the expiry of such period, one or more of the neutral member shall not have been agreed upon, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to nominate such neutral member o members.

4. Appointments to fill vacancies shall be made in the same manner as the appointment of the member to be replaced. However, if a vacancy to be filled by the Government of one of the Three Powers or the Federal Government is not so filled within one month of its occurring, either the Governments of the Three Powers or the Federa Government may request the President of the International Court o Justice to make an interim appointment to the vacancy of a person who shall not be a national of any one of the Three Powers or a German national and who shall serve for a period of six months or until the vacancy is filled in the normal manner, whichever is longer. If the

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[1] For the 1952 text of the charter, see *Convention on Relations with the Federa Republic of Germany* . . . (S. Execs. Q and R, 82d Cong., 2d sess.), pp. 15–22.

[2] Neither the American, British, and French members, the three German members nor the three neutral members of the tribunal had been appointed as o

Three Powers or the Federal Government may request the President of the International Court of Justice to make such appointment, if the agreement envisaged by subparagraph (c) of paragraph 2 of this Article has not been reached within one month of the vacancy occurring

5. The Tribunal may, by majority vote, declare a vacancy if, in its opinion, a member has, without reasonable excuse, failed or refused to participate in the hearing or decision of a case to which he has been assigned.

ARTICLE 2

1. The members of the Tribunal shall be appointed for four years. They may be reappointed after the expiration of their terms of office.

2. A member whose term of office has expired shall nevertheless continue to discharge his duties until his successor is appointed. After such appointment he shall, unless the President of the Tribunal directs otherwise, continue to discharge his duties respecting pending cases in which he has participated until such cases have been finally decided.

3. Members of the Tribunal shall not engage in any activity incompatible with the proper exercise of their duties, nor shall they participate in the adjudication of any case with which they have previously been concerned in another capacity or in which they have a direct interest. Differences of opinion regarding the applicability of this paragraph shall be resolved by the Tribunal.

4. (a) During and after their terms of office, the members of the Tribunal shall enjoy immunity from suit in respect of acts performed in the exercise of their official duties.

(b) The members of the Tribunal who are not of German nationality shall, moreover, enjoy in the Federal territory the same privileges and immunities as are accorded chiefs of diplomatic missions. If sittings or official acts take place in the territory of one of the Three Powers, the members of the Tribunal who are not of the nationality of the country in which the sitting or act takes place shall enjoy diplomatic privileges and immunities in such country.

5. Every member of the Tribunal shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

6. Subject to the provisions of paragraph 5 of Article 1 of the present Charter, no member may be dismissed before the expiry of his term of office, or before the termination of his duties in accordance with paragraph 2 of this Article, except by agreement between the Governments of the Three Powers and the Federal Government; or, in the case of a member appointed by the President of the International Court of Justice, by agreement between the Governments of the Three Powers and the Federal Government, with the consent of the President of the International Court of Justice.

ARTICLE 3

[Deleted.]

1. The Tribunal, presided over by the President or one of the Vice Presidents, shall sit either in plenary session or in Chambers of three members.

2. A plenary session shall, in principle, include all the members of the Tribunal. A quorum of five members shall suffice to constitute a plenary session; it shall be composed of an uneven number of members and in any case shall consist of an equal number of the members appointed by the Governments of the Three Powers and of those appointed by the Federal Government, and at least one neutra member.

3. Chambers shall be composed of one of the members appointed by the Governments of the Three Powers, one of the members appointed by the Federal Government and one neutral member.

4. The Tribunal in plenary session shall nominate the members of such Chambers, define the categories of cases with which a Chamber will be concerned or assign a particular case to a Chamber.

5. Any decision of a Chamber, on a case assigned to it, shall be deemed to be a decision of the Tribunal.

6. The final decision on a case assigned to a Chamber must be taken by the Tribunal in plenary session, if one of the parties so requests before the Chamber itself has pronounced a final decision.

ARTICLE 5

The Tribunal shall sit in public unless it decides otherwise. The deliberations of the Tribunal shall be and shall remain secret as shal all facts brought to its attention in closed session.

ARTICLE 6

1. A Registrar shall be responsible for the administration of the Tribunal; he shall have the necessary staff at his disposal. The Registrar shall handle the transmission of documents, keep a record of petitions submitted to the Tribunal and be responsible for the archives and accounts of the Tribunal.

2. The first Registrar shall be appointed by agreement between the Three Powers and the Federal Republic. The Registrar shall be a permanent official subject to dismissal and replacement only by the Tribunal.

3. The Registrar, upon receipt of the first petition filed pursuant to Article 14 of the present Charter, shall immediately notify the President, who shall thereupon call the first meeting of the Tribunal in plenary session at the seat of the Tribunal as soon as practicable, for the purpose of determining the Rules of Procedure and attending to other business. Thereafter the Tribunal shall meet as business requires.

4. Paragraphs 3 and 4 of Article 2 of the present Charter shall not become effective until the first meeting in plenary session referred to in paragraph 3 of this Article.

ARTICLE 7

The seat of the Tribunal shall be located within the Federal territory at such place as shall be determined by a subsidiary administrative agreement between the Governments of the Three Powers and the Federal Government. The Tribunal may, however, sit and exercise its functions elsewhere, when it deems it desirable to do so.

ARTICLE 8

Questions pertaining to the operating costs of the Tribunal, including the official emoluments of members, as well as arrangements for securing the inviolability of the premises of the Tribunal, shall be regulated by the subsidiary administrative agreement referred to in Article 7 of the present Charter.

PART II—COMPETENCE AND POWERS OF THE TRIBUNAL

ARTICLE 9

1. The Tribunal shall have jurisdiction over all disputes arising between the Three Powers and the Federal Republic under the provisions of the Convention on Relations between the Three Powers and the Federal Republic of Germany (hereinafter referred to as "the Convention") or the present Charter or any of the related Conventions, listed in Article 8 of the Convention, which the parties are not able to settle by negotiation or by other means agreed between all the Signatory States, except disputes expressly excluded from its jurisdiction by the provisions of the Convention or the present Charter or any of the related Conventions.

2. (a) The Tribunal shall, moreover, have jurisdiction in respect of any question as to the extent of the competence of the following authorities:

The Board of Review referred to in Chapter One of the Convention on the Settlement of Matters Arising out of the War and the Occupation;[1]

The Supreme Restitution Court referred to in Chapter Three of that Convention;

The Arbitral Commission on Property, Rights and Interests in Germany referred to in Chapters Five and Ten of that Convention.

(b) A question as to the extent of the competence of these authorities may be raised at any time after the institution of proceedings before them and also after a final decision.

(c) The decisions of the Tribunal on these questions shall be binding on the authorities whose competence has been questioned.

3. The decisions of the authorities specified in sub-paragraph (a) of paragraph 2 of this Article shall be subject to the jurisdiction of the Tribunal only to the extent contemplated in sub-paragraph (a) o

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[1] *Infra*, pp. 557–607.

paragraph 2 of this Article, unless the contrary is expressly provided in one of the related Conventions.

4. Decisions of the authorities provided for or referred to in the related Conventions, other than those specified in sub-paragraph (a) of paragraph 2 of this Article, shall be subject to review by the Tribunal, whether on questions as to the extent of competence or on the merits, only to the extent contemplated by paragraph 1 of this Article, unless the contrary is expressly provided in one of the related Conventions

5. Only the Governments of one or more of the Three Powers, on the one hand, and the Federal Government, on the other, may be parties before the Tribunal. If the Federal Government brings a complaint against one or two of the Governments of the Three Powers, or if one or two of the Governments of the Three Powers brings a complaint against the Federal Government, the other Government or Governments of the Three Powers may apply to the Tribunal to be joined as parties.

ARTICLE 10

The Tribunal shall render its decisions in the form of judgments or directives which shall be binding on the parties.

ARTICLE 11

1. The Signatory States undertake to comply with the decisions of the Tribunal and to take the action required of them by such decisions or necessary to remedy the situation.

2. If a Signatory State required by a decision of the Tribunal to take action to give effect to that decision is unable, or fails, to take such action within the time specified by the Tribunal, or if no time is specified, within a reasonable time, then that State, or any other Signatory State a party to the dispute, may apply to the Tribuna for a further decision as to alternative action to be taken by the defaulting State.

ARTICLE 12

1. The Tribunal or, in a case of urgency, the President shall have the power, by the issue of directives, to take such measures as may be necessary to conserve the respective rights of the parties pending the judgment of the Tribunal. Any directive issued by the President under this Article may be confirmed, amended or annulled by the Tribunal within seventy-two hours after the notification thereof to the parties.

2. The parties shall be afforded an opportunity to be heard prior to the issue of any directive by the Tribunal or by the President under this Article.

3. In the absence of the President, his powers under this Article shall be exercised by one of the Vice-Presidents to be designated by the President for this purpose.

ARTICLE 13

The official languages of the Tribunal shall be French, English, and German.

ARTICLE 14

Proceedings before the Tribunal shall be instituted by a written petition filed with the Tribunal which shall contain a statement of the facts giving rise to the dispute, reference to the provisions of the Convention or the present Charter or the related Conventions which are invoked, legal argument, and conclusions.

ARTICLE 15

1. The parties shall be represented by agents. They may be assisted by counsel.
2. Such agents and counsel shall enjoy immunity from suit in respect of acts performed in the exercise of their duties.

ARTICLE 16

1. The presiding member may summon the agents in order to be informed of their wishes concerning the time limits and conduct of the proceedings.
2. The presiding member shall set the time limits for the submission of pleadings and shall prescribe all the measures necessary for the conduct of the proceedings.
3. Certified copies of all documents submitted by either party shall be immediately forwarded to the other party through the Registrar.

ARTICLE 17

The proceedings shall consist of two parts; written and oral. Oral proceedings may be dispensed with if both parties so request.

ARTICLE 18

1. Written proceedings shall consist of a statement of the complainant's case, the defendant's answer and, unless the Tribunal directs otherwise, a reply and a rejoinder.
2. Counterclaims shall be permissible.

ARTICLE 19

1. Oral proceedings shall consist of the complainant's argument, the defendant's argument and, unless the Tribunal directs otherwise, a reply and a rejoinder, as well as hearings of witnesses and experts.
2. The Tribunal shall have power to demand the production of evidence, documentary or other, to require the attendance of witnesses to testify, to request expert opinion, and to direct inquiries to be made.
3. In the event that a party does not produce evidence which in

which such party possesses or is in a position to procure, the Tribuna shall proceed to give its decision notwithstanding the absence of such evidence.

4. The presiding member or any other member of the Tribunal may put questions to the parties, witnesses and experts.

5. A written record of the oral proceedings shall be kept and shall be signed by the presiding member and the Registrar.

ARTICLE 20

All decisions of the Tribunal shall be based on the Convention, the present Charter and the related Conventions. The Tribunal shall, in the interpretation of such Conventions, apply the generally accepted rules of international law governing the interpretation of treaties.

ARTICLE 21

1. The Tribunal shall decide by majority vote.

2. Judgments shall state the reasons on which they are based.

3. Judgments shall be signed by the presiding member and by the Registrar.

4. Judgments shall be final and not subject to appeal.

5. In the case of a difference of opinion as to the meaning or scope of a judgment, the Tribunal may construe it by an interpretative judgment, on the application of either party and after having heard both parties.

ARTICLE 22

The revision of a judgment may not be requested of the Tribunal except upon the grounds of the discovery of a fact which is of such a nature as to exercise a decisive influence, and of which the Tribunal and the party requesting revision had been unaware before the pronouncement of the judgment, always provided that such ignorance was not due to negligence on the part of the party requesting the revision.

ARTICLE 23

1. Unless the Tribunal directs otherwise, each party to proceedings before the Tribunal shall pay its own costs.

2. The Tribunal shall bear the costs in respect of witnesses whose attendance it has required and expert opinions and inquiries which it has ordered.

ARTICLE 24

The Tribunal shall determine its own rules of procedure consistent with the present Charter.

PART IV—ADVISORY OPINIONS

ARTICLE 25

1. The Tribunal may, at the joint request of the Governments of the Three Powers and of the Federal Government, give an advisory

Charter or the related Conventions, with the exc
questions with which it would not have been comp
they had been referred to it in the form of a dispute.

2. The Tribunal may, at the request of an autho
in paragraph 2 of Article 9 of the present Charter o
of the presiding member of such an authority, gi
opinion on the competence of such authority.

3. Advisory opinions shall not be binding.

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15. CONVENTION ON THE RIGHTS AND OBL FOREIGN FORCES AND THEIR MEMBERS IN REPUBLIC OF GERMANY, MAY 26, 1952, AS SCHEDULE II TO THE PROTOCOL ON THE OF THE OCCUPATION REGIME IN THE FED LIC OF GERMANY, OCTOBER 23, 1954[1]

THE UNITED STATES OF AMERICA,
THE UNITED KINGDOM OF GREAT BRITAIN AND NOR
THE FRENCH REPUBLIC,
and
THE FEDERAL REPUBLIC OF GERMANY
Agree as follows:

PART ONE—GENERAL

ARTICLE 1—DEFINITIONS

In the present Convention and the Annexes here
terms shall be given the meanings hereinafter indicat

1. The Federal territory: The territory in whi
Republic exercises jurisdiction, including its waters a
over such territory and waters.

2. The Three Powers: The United States of Ame
Kingdom of Great Britain and Northern Ireland
Republic.

3. Other Sending State: Any Power, other than
Powers, which, by agreement with the Three Powe
them, has Forces stationed in the Federal territory
force of the present Convention; and any other Pow
future have Forces stationed in the Federal territory

(a) if before the entry into force of the arra
German Defence Contribution,[2] by agreement
Powers, or any one of them, so far as such other

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[1] *The Bonn Agreements of 1952 as Amended by the Paris Prot*
No. 11, 84th Cong., 1st sess.), pp. 19–57. For the 1952 text
see S. Execs. Q and R, 82d Cong., 2d sess., pp. 89–124.

[2] See the Protocols of Oct. 23, 1954, to the North Atlantic
Brussels Treaty; *infra*, pp. 871–873 and 972–989.

vention with the Federal Republic concerning the status of its Forces, and

(b) if after the entry into force of the arrangements for the German Defence Contribution, by agreement with the Federa Republic.

4. The Power concerned: That Power whose rights and obligations are concerned in the particular case, namely:

(a) in the case of one of the Three Powers, that Power;

(b) in the case of another Sending State,

(i) that one of the Three Powers which has been named a the Power concerned on the basis of an agreement, to be notified to the Federal Government, between the Sending State and the Three Powers or any one of them; or

(ii) the Sending State itself to the extent to which i assumes vis-à-vis the Federal Republic, by an agreement concluded with the Three Powers or any one of them, after ascertaining the views of the Federal Government, all o certain of the rights and obligations arising out of the present Convention, and gives the Federal Government forma notification thereof; for the remaining rights and obligations one of the Three Powers to be notified to the Federal Republic in accordance with item (i) of this sub-paragraph.

5. The Forces: The armed Forces of the Three Powers and of other Sending States stationed in the Federal territory.

6. The authorities of the Forces: The authorities of the Forces o the Power concerned.

7. Members of the Forces:

(a) Persons who, by reason of their military service relationship, are serving with the armed Forces of the Three Powers o other Sending State and are present in the Federal territory (military personnel);

(b) Other persons who are in the service of such armed Force or attached to them, with the exception of persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory provided that any such other persons who are stationed outside the Federal territory or Berlin shall be deemed to be members o the Forces only if they are present in the Federal Territory on duty (followers).

The following are considered "members of the Forces": dependents who are the spouses and children of persons defined in subparagraphs (a) and (b) of this paragraph or close relatives who are supported by such persons and for whom such persons are entitled to receive material assistance from the Forces. The definition "members of the Forces" shall include Germans only if they enlisted or were inducted into, or were employed by, the armed Forces of the Power concerned in the territory of that Power and at that time either had their permanent place of residence there or had been resident there for at least a year.

9. Accommodation: Land, including all property permanently attached thereto, and all rights of use related to land, including such property, used or to be used by the Forces within the Federal territory.

10. Installations: Land, buildings or part thereof, and all property permanently attached thereto, which, pursuant to the provisions of the present Convention, are allotted for the exclusive use or occupancy (im ausschliesslichen Besitz) of the Forces. This definition shall not apply to Article 20 of the present Convention.

ARTICLE 2—OBSERVANCE OF GERMAN LAW: POLITICAL ACTIVITY

1. The members of the Forces shall observe German law, and the authorities of the Forces shall undertake and be responsible for the enforcement of German law against them, except as otherwise provided in the present or in any other applicable Convention or agreement.

2. The members of the Forces shall abstain from any activity inconsistent with the spirit of the present Convention and shall in particular refrain from any political activity.

ARTICLE 3—GENERAL OBLIGATIONS

1. In asserting the rights and immunities accorded to them under the present Convention, the Forces shall give due consideration to German interests, public and private, particularly by taking into account the capacity of the German economy and the essential domestic and export requirements of the Federal Republic and West Berlin.

2. The German authorities shall exercise the powers which they have under the Basic Law [1] in the fields of legislation, administration and judicial action so as to ensure the protection and security of the Forces and their members and of the property of the Forces and their members, and to ensure the satisfaction of the requirements of the Forces and the performance of the obligations of the Federal Republic as provided in the present Convention.

3. The provisions of Annex A to the present Convention shall enter into force simultaneously with the present Convention. They shall apply also to offences committed in the Federal territory against the armed Forces of the Three Powers stationed in Berlin. The Federal Republic shall not reduce the legal protection afforded by the provisions of this Annex.

4. The German authorities shall not subject or, within the scope of their power, permit the subjection of the Forces and their members, or the property of the Forces and their members, to prejudiced or less favourable treatment, other than that which is, in accordance with international law and practice, established by law with respect to aliens ordinarily resident in the Federal territory.

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[1] *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 283–305.

1. The authorities of the Forces and the German authorities shal extend full co-operation and assistance to each other to further an safeguard the security of any Power concerned and of the Federa Republic and that of the Forces stationed in the Federal territory and their members, and of the property of the Forces and thei members.

2. Such co-operation and assistance shall extend, in accordanc with an understanding to be reached between the appropriate authorities, to the collection, exchange and protection of the security of al pertinent information.

ARTICLE 5—LIAISON

The authorities of the Forces and the German authorities shall take appropriate measures to ensure close and reciprocal liaison.

PART TWO—JURISDICTION

Section I—Criminal Proceedings

ARTICLE 6—CRIMINAL OFFENCES: JURISDICTION AND APPLICABLE LAW

1. Except as otherwise provided in the present Convention, the authorities of the Forces shall exercise exclusive criminal jurisdictio over members of the Forces. A death sentence shall not be carrie out in the Federal territory by the authorities of the Forces as long a German law does not provide for such penalty.

2. Where, under the law of the Power concerned, the service tribunals are not competent to exercise criminal jurisdiction over member of the Forces, the German courts and authorities may exercis criminal jurisdiction over him in respect of an offence under Germa law committed against German interests, in accordance with th following provisions:

(a) No criminal proceedings, other than those provided for i Article 7 of the present Convention, or urgent preliminary investigations, after consultation, as far as practicable, with the authorities of the Forces, shall be instituted by the German courts o authorities until the authorities of the Forces have been consulted by the appropriate German authorities and been given the opportunity, within twenty-one days from the receipt of information as to the facts involved, to make representations and recommendations in regard to the effect upon the security of the Forces of any such criminal proceedings; any such representation and recommendations shall be given due weight by the Germa courts or authorities. Such consultation shall, however, not b required where the alleged offence is one the penalty for which under German law, is merely detention for not more than si weeks or a fine not exceeding DM 150 (Übertretung), unless the or might be involved in the case in question;

(b) The German courts and authorities shall, within the discretionary powers conferred on them by German law, abstain from prosecution in any case in which

(i) such abstention is permitted by German law; or

(ii) the offender has been suitably punished by disciplinary action of the authorities of the Forces;

(c) The German courts and authorities shall decide upon questions of arrest, detention and execution of punishment in accordance with the provisions of German law. The authorities of the Forces shall execute any warrants of arrest and detention. An accused person so taken into custody by the authorities of the Forces shall remain in their custody until, by virtue of a final (rechtskräftig) judicial decision, he is released or sentenced. The authorities of the Forces will take appropriate measures to prevent any prejudice to the course of justice (Verdunkelungsgefahr). They will hold an accused person so taken into custody at the disposal of the German courts and authorities, will grant access to him at any time by the German courts and authorities and on request present him to the German courts and authorities for the purposes of investigatory proceedings, trial and the serving of any sentence which may be imposed. Where an accused person is not taken into custody, the authorities of the Forces will take measures to ensure that he is at the disposal of the German courts or authorities for the purposes aforesaid;

(d) Any sentence of imprisonment shall be served in a German penal institution. For the purposes of this paragraph, the expression "offence under German law committed against German interests" shall mean any offence under German law other than an offence directed against the Forces, their members, or the property of the Forces or their members.

3. The exclusive jurisdiction of the German authorities over persons who are subject to German criminal jurisdiction shall include those cases in which the criminal offence is directed against the Forces, their members, or the property of the Forces or their members.

4. With the consent of the German authorities the authorities of the Forces may transfer to German courts or authorities, for investigation, trial and decision, groups of, or particular, cases for which they are exclusively competent under paragraph 1 of this Article.

5. With the consent of the authorities of the Forces, the German authorities may transfer to the authorities of the Forces, for investigation, trial and decision, particular cases of the nature described in paragraph 3 of this Article in which the alleged offender is not a German.

6. In cases under paragraphs 1 and 5 of this Article, the authorities of the Forces will apply their own law. If such cases involve acts which are punishable under German law, but not under the law of the Power concerned, German law shall apply.

shall apply.

ARTICLE 7—ARREST, SEARCH AND SEIZURE

1. Members of the Forces who properly identify themselves b
means of an identity document issued under Article 24 of the presen
Convention shall not be subject to arrest by German authorities.

2. German authorities may, however, take into custody a membe
of the Forces, without subjecting him to the ordinary routine of arrest
n order immediately to deliver him, together with any weapons o
items seized, to the nearest appropriate authorities of the Forces

(a) when so requested by the authorities of the Forces;

(b) in the following cases in which the authorities of the Force
are unable to act with the necessary promptness:

(i) when apprehended *in flagrante delicto*

(1) for the commission or attempted commission of
criminal offence which results or might result in seriou
injury to persons or property, or serious impairment o
other legally protected rights (Rechtsgüter); or

(2) insofar as this appears necessary to abate a
already existing serious disturbance of public order;

(ii) if there is danger of flight, for the commission or at-
tempted commission of espionage to the prejudice of th
Federal Republic.

3. (a) The German authorities may search a member of the Force
or the property in his immediate possession

(i) when so requested by the authorities of the Forces

(ii) if he is taken into custody under paragraph 2 of thi
Article, to the extent necessary to disarm him or to seiz
any item constituting proof of the criminal offence for whic
he is taken into custody.

(b) The provisions of the fourth sentence of paragraph 5 o
Article 35 of the present Convention shall not be affected.

(c) The official quarters of a member of the Forces, or wher
there are none the residence occupied by him with permissio
of the authorities of the Forces, may not be searched by Germa
authorities, except at the request of the authorities of the Forces
If such residence of the member of the Forces is not an installa-
tion, either his consent or that of the authorities of the Forces t
the search shall be sufficient.

4. The German authorities shall notify the appropriate authoritie
of the Forces of the arrest of any person working in the service of th
Forces.

5. The appropriate authorities of the Forces may

(a) arrest members of the Forces;

(b) take into custody a person who is subject to Germa
criminal jurisdiction, without subjecting him to the ordinar
routine of arrest, in order immediately to deliver him, togethe

German authorities

(i) when so requested by the German authorities;

(ii) in the following cases in which the German authorities are unable to act with the necessary promptness:

(1) when apprehended *in flagrante delicto* for the commission or attempted commission of a criminal offence against the Forces, their members, or the security, property or other legally protected rights (Rechtsgüter) of the Forces or their members; or

(2) if there is danger of flight, for the commission, or attempted commission, of a criminal offence under Sections 1 to 9 inclusive of Annex A to the present Convention;

(iii) within an installation, when there are reasonable grounds to believe (dringender Verdacht) that his presence is unauthorized or that he has committed a criminal offence within the installation.

6. Where the authorities of the Forces believe that a person subject to German jurisdiction has been guilty of a criminal offence under Sections 1 to 11 inclusive of Annex A to the present Convention, the following special provisions shall apply:

(a) If the suspect is to be arrested by the German authorities, the authorities of the Forces shall, if practicable, be given timely notification and may designate investigators to be present at the arrest. The latter may also be present at any searches or seizures undertaken in connection with the investigation. The authorities of the Forces shall have the exclusive right, for a period not to exceed twenty-one days following the arrest, to conduct interrogations of the suspect concerning any offences of which he is suspected and related matters. For this purpose their investigators shall have access to the suspect at any time. An official designated by the German investigating authority may be present at the interrogation, of the conduct of which such authority shall be given timely notification. The German investigating authority shall take appropriate measures to present [prevent] any prejudice to the course of justice (Verdunkelungsgefahr) and shall refrain from any investigation activity of its own unless the investigators of the Forces request such investigation. During the interrogation by the investigators of the Forces, it shall, at their request, make the applications provided for in the German Code of Criminal Procedure and shall see to it that the judicial decisions suited to promote the investigation proceedings are issued and that the measures ordered in such decisions are carried out. At the conclusion of the investigation by the investigators of the Forces, in any event not later than twenty-one days after the arrest, the interrogations and the other investigation proceedings shall be continued by the German investigating authority. The investigators of the Forces shall deliver to the German investigating authority all evidence collected in the otherwise;

(b) If the suspect is not a German, the provisions of subparagraph (a) of this paragraph shall apply, subject to the following proviso:

> The appropriate authorities of the Forces may take the suspect into their own custody for a period of twenty-one days and may themselves conduct all interrogations and other investigations. For the judicial measures required for this period, a member of the Forces authorized to exercise judicial functions shall be assigned to the competent German courts as an assessor not entitled to vote.

7. The authorities of the Forces may search a person who is subject to German jurisdiction or the property in his immediate possession

(a) when so requested by the German authorities;

(b) if he is taken into custody under subparagraph (b) of paragraph 5 of this Article, to the extent necessary to disarm him or to seize any item constituting proof of the criminal offence for which he is taken into custody.

8. The constitutional immunities of the Federal President and the members of the German Federal and Land legislative bodies shall not be impaired by the provisions of this Article.

ARTICLE 8—PROCEDURE AND CO-OPERATION IN CRIMINAL PROCEEDINGS

1. The authorities of the Forces shall take such measures against members of the Forces who have committed criminal offences against German interests as they would take if such offences had been com itted against the Power concerned, the Forces or their members, or their property.

2. The German authorities shall take such measures against persons subject to their criminal jurisdiction for criminal offences against the Forces, their members, or the property of the Forces or members, as they would take if such offences had been committed against the Federal Republic, its Länder or its nationals, or their property.

3. (a) The authorities of the Forces shall at the request of the German authorities notify the latter of the arrest of any person for a criminal offence described in paragraph 1 of this Article.

(b) The German authorities shall at the request of the authorities of the Forces notify the latter of the arrest of any person for a criminal offence described in paragraph 2 of this Article.

4. Trial of a member of the Forces for a criminal offence described in paragraph 1 of this Article, committed within the Federal territory shall be held within that territory except in cases of military exigency When military exigency requires that the trial of such an offence be held outside the Federal territory, the authorities of the Forces shall so inform the German authorities, with particulars of the time and place of trial. The German authorities shall be entitled to have observers present unless security considerations require otherwise and shall be informed of the result of the trial.

5. The German authorities and the authorities of the Forces shal

under paragraphs 1 and 2 of this Article. Unless security considerations require otherwise, they shall permit representatives of the appropriate authorities to attend the trial and, within the applicable regulations, grant them the opportunity to present their views on questions of law and fact. In addition to the cases provided under German criminal procedure, the Forces or their members shall also have the right to appear as co-prosecutors (Nebenkläger) before German courts, to the extent that the criminal offence is directed against the security or the property of the Forces or their members or is one of the offences listed in Annex A to the present Convention. On request the German authorities and the authorities of the Forces shall inform each other of an intent to initiate, to refrain from initiating, or to discontinue a prosecution or disciplinary proceeding and of the decision.

Section II—Non-Criminal Proceedings

ARTICLE 9—JURISDICTION AND PROCEDURE IN NON-CRIMINAL PROCEEDINGS

1. Subject to the provisions of the present Convention and any other applicable agreement, German courts and authorities shall exercise jurisdiction over members of the Forces in non-criminal proceedings.

2. Unless proceedings in non-criminal matters are commenced on the application of a member of the Forces, the German courts and authorities will serve upon the member concerned the written documents or court order whereby the proceedings are commenced even if such service is not required by German law and regulations.

3. The German courts and authorities shall grant members of the Forces sufficient opportunity to safeguard their rights. If a member of the Forces is unable because of official duties or authorized absence to protect his intrersts [interests] in a non-criminal proceeding in which he is a participant, the German court or authority shall at his request suspend the proceeding until the elimination of the disability, but for not more than six months. The existence of the disability shall be established (glaubhaft machen) by the member of the Forces A certificate of the ground and duration of the disability issued by the appropriate authorities of the Power concerned shall be given due weight by the court or authority. The proceeding need not be suspended if the interests of the member of the Forces can adequately be protected by a person authorized to represent him before a court or other representative entitled to safeguard his rights.

4. The members of the Forces shall enjoy the same rights as Germans in respect to the right to free judicial assistance (Armenrecht) They shall not be obligated to post security for costs of any kind in cases where Germans are free from such obligation. Certificates required to establish the right to free judicial assistance shall be issued by the appropriate consular authorities after they have made the necessary investigations.

1. The authorities of the Forces shall, insofar as service regulation permit, take all appropriate measures to aid in the enforcement o judgments, decisions and orders (vollstreckbare Titel) of Germa courts and authorities in non-criminal proceedings.

2. If the enforcement of such judgment, decision or order is to b effected within an installation of the Forces, the German court o authority shall request the authority of the Forces responsible for th administration of the installation to enforce or permit the enforcement of the judgment, decision or order. The authorities of the Force shall, if possible, comply with the request. The authorities of th Forces shall deliver to the appropriate German authority propert taken by themselves for satisfaction of the judgment, decision or orde

3. Property of a member of the Forces which is certified by th appropriate authority of the Forces to be needed by him for the fulfilment of his official duties shall be free from seizure for the satisfactio of a judgment, decision or order, together with other property, tangibl and intangible, which under German law is not subject thereto.

4. The personal liberty of a member of the Forces shall not b restricted by a German court or authority in a non-criminal proceeding, whether to enforce a judgment, decision or order, to compe an oath of disclosure, or for any other reason.

5. No payment due to a member of the Forces from his Government shall, except to the extent permitted by the laws and regula ions of the Power concerned, be subject to any attachment, garnishment or other form of execution ordered by a German court o authority.

Section III—Provisions Common to Criminal and Non-Crimina Proceedings

ARTICLE 11—PRESENCE IN COURT. WITNESSES. SERVICE OF PROCES

1. The authorities of the Forces shall, unless military exigenc requires otherwise, secure the attendance of members of the Force whose presence is required by a German court or authority, provide hat such appearance is compulsory under German law. If militar xigency prevents such attendance, the authorities of the Forces sha furnish a certificate stating the basis and duration of such disability.

2. German courts and authorities shall, in accordance with th provisions of German law, secure the attendance of persons whos presence as witnesses or experts is required by a service tribunal o other authority of the Forces.

3. The provisions of paragraphs 1 and 2 of this Article shall appl *mutatis mutandis* to all proceedings requiring the production o evidence.

4. Subject to the provisions of the present Convention or an ther applicable agreement, the privileges and immunities of witnesse and experts before German courts or authorities, and service tribu

nals or authorities of the Forces, shall be those accorded by the law of the court, tribunal or authority concerned. Appropriate consideration shall also be given to the privileges and immunities which the witness or expert would have before a German court if he is not a member of the Forces, or, if he is a member of the Forces, before a service tribunal of the Power concerned.

5. The authorities of the Forces shall permit, or themselves effect, the service of process upon any person inside an installation, and upon members of the Forces. In all other cases service shall be made or permitted by the appropriate German courts or authorities.

6. Service by German courts and authorities on members of the Forces shall not be effected by publication or advertisement.

ARTICLE 12—OBSTRUCTION OF JUSTICE

Perjury, attempts to obstruct justice, any other criminal offences and contempts committed before or against a German court or authority or a service tribunal or authority of the Forces, and failure to comply with process duly served in accordance with Article 11 of the present Convention shall be dealt with by the court or authority having criminal jurisdiction or disciplinary authority over the person concerned, according to its own law, as if the act had been committed before or against its own courts or authorities.

ARTICLE 13—ATTORNEYS

1. Nationals of any Power concerned and German attorneys shall not be hindered from acting as defence counsel before service tribunals in accordance with the rules and regulations prescribed for such service tribunals.

2. A person admitted to practice as an attorney in the country of one of the Powers concerned may, in proceedings in which a member of the Forces is involved, in association with a German attorney who is authorized to represent the member of the Forces in such proceedings, appear before German courts to make statements (Ausführungen).

3. Except as provided in paragraphs 1 and 2 of this Article, foreign nationals may act as legal consultants, and appear before German courts, in the Federal territory only in accordance with the provisions of German law.

ARTICLE 14—EXCLUSION OF PUBLIC. TRANSFER OF PROCEEDINGS

The provisions of Section 172 of the German Judicature Act on the exclusion of the public from hearings of criminal and noncriminal proceedings, and of Section 15 of the German Code of Criminal Procedure on the transfer of criminal proceedings to a court of a different district, shall be applied *mutatis mutandis* in cases before German courts or authorities where there is a threat to the security of the Forces or their members.

1. Subject to the provisions of paragraph 3 of this Article,

(a) no German court or authority shall, in any proceeding before it, require or allow any person to disclose information which would or might prejudice the security of the Forces or the Power concerned, except with the consent of the appropriate authority of the Forces or the Power concerned;

(b) No court or authority of the Forces shall, in any proceeding before it, require or allow any person to disclose any German state or official secret, except with the consent of the appropriate German authority.

2. If during proceedings it appears that the disclosure of such information or secret might result, the court or the authority, unless it is decided to dispense with the disclosure, shall, before hearing or dealing with such information or secret, request a written decision of the appropriate authority as to whether the consent required by paragraph 1 of this Article will be given. The consent will not be refused if, under the terms of the present Convention or any other agreement between the parties, the giving of information to the appropriate courts or authorities is required.

3. The provisions of this Article shall not be applied in such a manner as to limit the constitutional rights of a party to a proceeding to testify or make a factual or legal statement on his own behalf.

ARTICLE 16—OFFICIAL ACTS

1. Whenever, in a criminal or noncriminal proceeding before a German court or authority, it becomes necessary to determine whether the act or omission which is the subject of the proceeding occurred in the performance by the person concerned of official duty for the Forces, the German court or authority shall suspend the proceeding and shall promptly notify the authorities of the Forces, stating the facts of the case. The appropriate authority of the Forces shall investigate the case and within twenty-one days after receipt of the notification transmit to the German court or authority a certificate describing the scope of the official duties of the person concerned at the relevant time and place. The certificate shall be signed by the highest ranking representative of the Forces having personal knowledge of the matter. The authorities of the Forces shall take appropriate measures to ensure that the certificate is compiled conscientiously as to form and content. After receipt of the certificate, but no later than twenty-one days after receipt by the authorities of the Forces of the notification, the proceeding shall be continued.

2. The authorities of the Forces may also submit such certificate to a German court or authority without having received a notification from such court or authority.

3. Such certificate shall be evidence only on the scope of official duties of the person concerned and shall be conclusive to this extent. The person who issued such certificate may, however, be called as a witness to explain or amplify its contents; and further, the provisions

constitutional rights of a party to a proceeding to testify or make a factual or legal statement on his own behalf. The German court or authority shall give to the fact that the act or omission constituted the performance of official duty such legal weight and effect as it is entitled to under German law.

4. The provisions of this Article shall not apply to cases under Article 8 of the Finance Convention.

PART THREE—ADMINISTRATION AND SUPPORT

Section I—Rights and Obligations

ARTICLE 17—MOVEMENT

1. The Forces and their members shall be entitled to enter, move within and over and depart from the Federal territory with vehicles, vessels and aircraft owned or operated by them or on their behalf without restriction except as contained in the present Convention. The Federal Republic shall ensure to the Forces and their members the use of all German public highways and waterways, and the right to fly in the air space of the Federal territory and to depart from, land on and use the airfields at the disposal of the Forces. The Forces shall be entitled to such use of the air space and airfields in the Federal territory as may be necessary for the security of the Forces or for their training, provided that the use of civil airfields for training purposes shall be requested from the German authorities, such request having been approved by the highest Air Headquarters of the Forces concerned.

2. The operating rights of the German railways shall remain unaffected. Rolling stock owned, rented, or exclusively used by the Forces may be brought into, and taken out of, the Federal territory. It shall be accepted for movement by the German railways if it can be operated in general conformity with the traffic operating methods of the latter.

3. Unless otherwise provided in this Convention or in any other applicable agreement, German traffic laws, ordinances and regulations shall apply to the Forces and their members. Deviations from German traffic regulations shall be permissible to the Forces in cases of military exigency, with due regard to public safety and order. For railway traffic such deviations shall be permitted only by agreement between the Forces and the competent railway administration.

4. The vehicles, sea-going vessels and aircraft of the Forces or their members may be licensed or registered, and shall be provided with license plates or other identification as appropriate, by the authorities of the Forces. Subject to the international regulations applicable in each case, the same provisions shall apply to inland water craft of the Forces or their members, excluding craft owned by members of the Forces of 15 tons carrying capacity or over. In the case of licensing by German authorities, these authorities may collect the normal license fee, which shall not include any form of taxation. The au-

for, and shall ensure the technical supervision of, the vehicles, vessels and aircraft licensed by them and shall, where necessary, and at the request of the German authority, furnish the name and address of the owner of a vehicle, aircraft or vessel licensed by them.

5. The Forces shall with regard to their vehicles be exempt from al German regulations limiting axle loads or the total weights of vehicles Vehicles owned or operated by the Forces or by their members shal be exempt from German laws, regulations or police measures requirin changes or additions in the construction, design or equipment of vehicles, such as markings, warning signals, brakes, lighting and direction indicators.

6. Documents issued by the appropriate authorities of the Powe concerned to a member of the Forces which authorize him to operat vehicles, sea-going vessels or aircraft shall be valid in the Federa territory. Authorization to operate inland water vessels licensed b the Forces shall be governed by regulations of the Forces, which shal take due account of German and, where applicable, internationa waterway regulations.

7. Members of the Forces shall use or permit to be used in the Federal territory private vehicles and aircraft belonging to them only i such vehicles or aircraft are insured against liability arising out o such use. The required insurance coverage, both in type and amount shall be determined in accordance with German law. This insuranc may, however, be effected with any insurance enterprise entitled t carry on such activity in the territory of the Power concerned and abl under the exchange control regulations, according to a declaration o the Power concerned, to pay claims in the Federal territory and in th currency of the Federal Republic.

8. A Standing Commission shall be established, to be composed o representatives of the appropriate authorities of the Three Powers an of representatives of the authorities of the Federal Republic. Th duty of this Commission shall be to guarantee effective co-ordinatio between civil and military air activities.

9. All air traffic control and related communications systems developed and carried on by the Federal authorities and by the Force shall be technically and administratively co-ordinated to the exten necessary to ensure air traffic safety and the common defence.

10. Permission for aerial photography by private individuals o civilian agencies and the production and distribution of prints an negatives therefrom, shall be given by the German authorities, subjec to security clearance by the authorities of the Forces. The methods o security clearance shall be determined by the Standing Commission

ARTICLE 18—COMMUNICATIONS

1. The Forces shall have the right to establish and operate militar post offices for the purpose of handling postal and telegraphic matte of the Forces and their members between themselves, with militar post offices in other countries and with their home countries. Exchange offices between the military post offices and the Federal Pos

in agreement between the competent authorities of the Federal Republic and of the Forces.

2. Furthermore, the Forces shall have the right to establish, operate and maintain their own communications (which include telecommunications and radio facilities), and broadcasting for the members of the Forces, within their installations and in their military vehicles, vessels and aircraft, insofar as they are required for military purposes.

3. Outside their installations the Forces shall normally use the German public telecommunications facilities. The Forces may, however, erect, operate and maintain communications facilities of their own outside their installations

(a) so far as compellingly necessary on the basis of military security;

(b) so far and so long as the German authorities are not in a position to erect, or in understanding with the Forces forego the erection of, the necessary facilities;

(c) temporarily for military exercises.

The authorities of the Forces shall make use of the rights given them under the second sentence of this paragraph, in cases under subparagraph (a) only after appropriate consultation, and in cases under subparagraph (b) only in agreement, with the German authorities.

4. The facilities erected and operated by the Forces themselves may be interconnected with the public network of the Federal Republic if they are technically and operationally compatible with it. The places of interconnection shall be as mutually agreed.

5. The provisions contained in Annex B to the present Convention shall apply with respect to radio frequencies used by radio stations which are operated or used by the Forces. These provisions shall enter into force at the same time as the present Convention.

6. The members of the Forces may, without payment of a fee and without individual authorization, erect and use wireless receiving apparatus.

7. Complete control of the cables identified as FK–12 and FK–41 lying within the Federal territory, including the associated equipment, shall be exercised by the authorities of the Power concerned.

ARTICLE 19—MANOEUVRES AND TRAINING EXERCISES

1. The Forces shall have the right to conduct manoeuvres and other training exercises throughout the Federal territory. When such manoeuvres or other exercises are carried out outside their installations, the Forces shall inform the competent German authorities in good time before the commencement of such manoeuvres and exercises. Any administrative measures required for the satisfactory execution of such manoeuvres or exercises shall, upon request of the Forces, be taken by the German authorities after reasonable previous consultation; provided that the Forces may co-operate in the carrying out of such measures.

2. The administrative measures taken by the German authorities shall be sufficiently broad to permit the Forces themselves to take

particular measures as may be necessary to the achievement of nilitary aim of the manoeuvres or exercises.

ARTICLE 20—DEFENSIVE WORKS AND MEASURES

Installations and works directly serving the purpose of defence, rell as safety installations, shall be erected or adapted by the ral Republic in such amounts, areas and types as are needed for common defence. Where there is a special need for secrecy or ity, the Forces themselves may erect or adapt such installations orks, provided that there is prior consultation with the Federal rnment.

The Federal Government shall co-operate with the Forces in to ensure that military and civil measures of protection necesto meet special security requirements can be implemented by the s and the German authorities efficiently and without delay. It provide that the preparations necessary for the implementation ch measures of protection will be done in time and in a sufficient int.

Measures taken under this Article shall be subject to the jurisn of the Arbitration Tribunal referred to in Article 9 of the ention on Relations between the Three Powers and the Federal blic of Germany,[1] provided that publicly or privately owned rty has been or will be seriously damaged thereby. Article 12 e Charter of the Arbitration Tribunal [2] shall apply to such measprovided that irremediable damage may be caused thereby to antial values.

CLE 21—RIGHTS OF THE FORCES RESPECTING INSTALLATIONS

Within and over their installations, the authorities of the Forces take all the measures necessary for the accomplishment of their on, provided that they shall observe German regulations in the of public health and safety unless their own regulations in such prescribe equal or higher standards. Insofar as their own regus in the fields of public health and safety do not prescribe such ards, and also in other fields, the authorities of the Forces may, t as otherwise provided in this Convention or in any other cable agreement, apply their own regulations, provided that in ing they do not endanger public health, safety and order outside nstallations. They shall notify the German authorities in good of the extent to which they are departing from German regulain the fields of public health and safety.

Where the authorities of the Forces do not themselves intend to ment within their installations applicable German regulations, shall reach agreements with the competent German authorities take into account equally military requirements and the rements of the German administration.

here buildings are partly occupied by (im Besitz) the Forces,

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upra, pp. 489–490.

purposes of this Article if they are used as dwellings for members of the Forces.

4. The German authorities shall, upon request of the Forces, supervise or restrict in the vicinity of installations building activities and the movement of persons, animals, all types of vehicles, vessels, aircraft and balloons to the extent necessary, in the interest of common defence, for the effective operation of such installations and their security.

ARTICLE 22—INSTALLATIONS, ARCHIVES, DOCUMENTS, PROPERTY AND MAIL

Installations, archives, documents and, subject to the provisions of paragraphs 2 and 3 of Article 7 of the present Convention, property of the Forces and also mail of the Forces recognizable as such, and mail of members of the Forces which is sent through the postal systems of the Forces shall be immune from entry, search, seizure and censorship by the German authorities unless in any case or category of cases such immunity is waived by the authorities of the Forces.

ARTICLE 23—POLICE OF THE FORCES

1. The competent agencies of the Forces shall have the right to patrol on public ways, in places of public resort and on public transport in the Federal territory and to take action with respect to members of the Forces, in order to maintain order and discipline.

2. Their powers with respect to persons subject to German jurisdiction shall be determined in accordance with Article 7 of the present Convention.

ARTICLE 24—IDENTIFICATION OF MEMBERS OF THE FORCES

1. The members of the Forces shall be provided by the appropriate authorities of the Power concerned with identity documents which shall indicate the name, date of birth and rank of the holder and shall bear a serial number and, unless the holder is in uniform, a photograph.

2. Dependents shall be designated as such in their identity documents.

3. Members of the Forces shall give proof of their identity upon the request of the competent German authorities.

4. Subject to the provisions of Article 25 of the present Convention, identity documents furnished in accordance with paragraph 1 of this Article shall constitute conclusive proof of identity.

5. When members of the Forces are travelling in groups under orders and military command, their uniforms shall be conclusive proof of identity.

6. When necessary, certification by the appropriate authorities of the Power concerned that a person is a member of the Forces within the definition of Article 1 of the present Convention shall be conclusive proof thereof.

1. Members of the Forces, other than dependents, who properl identify themselves in accordance with Article 24 of the present Convention, shall be entitled to unrestricted entry into, and exit from the Federal territory. Dependents shall be entitled to such entr and exit upon producing a valid passport indicating their status a such.

2. The authorities of the Power concerned may, at frontier point specified by them, participate in the control of travel documents o members of the Forces.

3. Members of the Forces shall not be subject to German legislatio concerning the registration and control of aliens.

4. Members of the Forces shall not acquire the right to permanen residence or domicile in the Federal territory. If a person ceases t be a member of the Forces but remains in the Federal territory, th appropriate authorities of the Forces shall notify the German authorities as soon as possible. The general police provisions concernin aliens shall apply to such persons.

ARTICLE 26—ENTRY AND EXIT

The German authorities shall co-operate with the authorities of th Three Powers, within the scope of the Basic Law and internationa agreements on travel, in preventing the entry into, or the exit from the Federal territory of persons whose entry or departure is regarde by the authorities of any one or more of the Three Powers as prejudicial to the security of the Forces. For the purposes of Germa laws and regulations respecting entry into, and exist [exit] from, th Federal territory, the security of the Federal Republic shall be deeme to include the security of the Forces.

ARTICLE 27—EXTRADITION

1. The Power concerned shall decided on requests for extradition o members of the Forces.

2. The German authorities shall give written notification to th appropriate authorities of the Three Powers when they receive request for extradition from a Government other than that of one o the Three Powers, unless such extradition is prohibited by Germa law.

3. Within twenty-one days after receipt of notification unde paragraph 2 of this Article, the authorities of any one or more o the Three Powers may notify the German authorities of their objectio to such extradition on grounds of security.

4. If the German authorities nevertheless intend to grant suc extradition, the matter shall be submitted for decision concernin the justification for the objections made under paragraph 3 of thi Article to an arbitrator, who shall not be of the nationality of any o the parties to the disagreement or the extradition request and shall b appointed by the President or a Vice-President of the Arbitratio

Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany. His decision shall be binding on all parties and shall not be subject to review.

5. Until the period of twenty-one days under paragraph 3 of this Article has expired and until the disagreement has been decided by the arbitrator, the German authorities shall not carry out the extradition without the consent of the authorities of the objecting Power or Powers.

ARTICLE 28—RIGHT OF PRESENCE IN THE FEDERAL TERRITORY

1. The Power concerned shall have the exclusive right to remove members of the Forces from the Federal territory.

2. If the authorities of the Three Powers are of the opinion that the presence of a person in the Federal territory endangers their security, they may recommend that the German authorities take in respect of his presence such measures as are permitted by the Basic Law.

ARTICLE 29—BEARING OF ARMS

1. The authorities of the Forces shall have the right to prescribe the conditions under which persons employed in the service of the Forces may bear and use arms within an installation or so far as their duties necessitate the bearing of arms. The regulations about the use of arms shall conform to the German law on "self-defence" (Notwehr).

2. The persons referred to in paragraph 1 of this Article must be in possession of a firearms certificate issued by the authorities of the Forces. Firearms certificates may be issued only to persons against whose reliability there are no valid objections. A suitably endorsed identity card shall also be considered a firearms certificate.

ARTICLE 30—HEALTH AND SANITATION

1. The authorities of the Forces and the German authorities shall extend to each other the fullest co-operation in matters concerning health and sanitation, particularly with respect to the control of communicable diseases; such co-operation shall extend to the exchange of information and statistics.

2. In the vicinity of installations of the Forces the German authorities shall, at the request of the authorities of the Forces, take such health and sanitation measures as are necessary to protect the health of the Forces. When the German authorities are not in a position to take action adequate to meet military requirements with respect to the disposal of waste, insect and rodent control, or water purification in areas outside cities, the Forces may themselves take such measures. Standards for the purification of water in cities where Forces are stationed will be agreed upon by the authorities of the Forces and the municipal authorities to guarantee a water supply free from contamination to the Forces.

1. Subject to the provisions of any special agreement, the authorities of the Forces shall have the right to establish and maintain cemeteries and to arrange for burial, disinterment and movement of th bodies of members of the Forces in compliance with adequate hygieni regulations to be determined by themselves.

2. The authorities of the Power concerned may take charge an dispose of the body of a member of the Forces who dies in the Federa territory, and may dispose of his personal property after the debts o the deceased person incurred in the Federal territory and owing t persons not members of the Forces have been settled. This provisio shall not apply if the deceased person was ordinarily resident in th Federal territory.

ARTICLE 32—FOREIGN CURRENCY

1. The authorities of the Power concerned shall have the right t import, export, possess and, subject to the provisions of paragraph of this Article, distribute to the members of the Forces any non-German currency or instruments or scrip expressed in the currenc of the Power concerned.

2. The authorities of the Power concerned may pay their member in instruments or scrip expressed in the currencies of the Power concerned, or in German currency, or in their own national currency provided that they shall introduce a system of payment in their ow national currency only after consultation with the Federal Government.

3. In order to avoid endangering German foreign exchange interests the authorities of the Power concerned, in co-operation with th Federal Government, shall take appropriate measures against an abuse of the provisions of paragraphs 1 and 2 of this Article.

4. The members of the Forces shall not be subject to Germa foreign exchange legislation, provided that the authorities of th Forces in co-operation with the German authorities take appropriat measures, on the basis of the German foreign exchange legislatio currently in force, to safeguard German foreign exchange interests.

ARTICLE 33—TAXATION

1. (a) Goods which are subject to excise tax shall be exempt fro the tax if they are procured by the Forces directly from a Germa manufacturer. This shall not apply to the excise taxes on tobacco, coffee, tea, sugar, alcohol, sparkling wines and gasolin nor to the levy imposed on coal to subsidize coal miners' housing The exemption shall apply only if the goods are procured by th official procurement agencies of the Forces for the use of, o consumption by, the Forces or their members.

(b) When procuring excisable goods on which exemption i claimed in accordance with subparagraph (a) of this paragraph the Forces shall certify that the goods, which shall be describe

2. (a) Goods delivered to, and services for, the Forces procured by official procurement agencies of the Forces exempt from the turnover tax, provided that such goods ices are for the use of, or consumption by, the Forces members. Suppliers shall exclude the turnover tax in culation of the price of such goods or services.

(b) Where, in the case of goods and services referred paragraph (a) of this paragraph, payment is made in the of the Power concerned, the supplier shall, on applic entitled to a refund of the turnover tax already paid on to the extent of the export refund under paragraph 16 Turnover Tax Law, in the version of 1 September 195 as to the exemption accorded in subparagraph (a). Su shall be deducted from the price of the goods or services.

(c) Where the exemption from, or refund of, the tax is claimed under subparagraph (a) or (b) of this p the official procurement agency of the Forces shall cert seller that the goods or the service is for the exclusive consumption by, the Forces or their members.

(d) Deliveries to the Forces shall be deemed to be deliveries.

3. (a) The tax treatment of the Forces and their member governed, to the extent that provision is not made in th Convention, by the Agreement on the Tax Treatme Forces and their Members signed at Bonn on 26 May amended by the Protocol signed at Bonn on 26 July 19

(b) Deleted.

ARTICLE 34—CUSTOMS TREATMENT OF THE FORCES

1. Subject to the provisions of the present Convention a other agreement between the Federal Republic and the Thr or any one of them, the Forces shall in principle be exempt man customs legislation and control and German regulations the movement of property into or out of the Federal territor

2. The Forces may bring into, and take out of, the Federal their property and property intended for their use or tha members, without payment of any duties or other Federal without restrictions or prohibitions. Goods purchased in th territory by the Forces against payment in the currency country shall, for the purposes of this Article, be treated as from the Federal territory and imported by the Forces. T shall observe German regulations designed to preserve the humans, animals and plants.

3. The Forces shall issue official certificates of author respect of their imports and exports. The form of these c shall be established in consultation with the Federal Govern

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[1] *Infra,* pp. 607–610.

4. Consignments of the Forces carried in their official transport shall be subject to customs control by the authorities of the Forces. The latter shall ensure the enforcement and adequacy of such control and the safe arrival of these consignments at destination. The authorities of the Forces shall inform the German customs authorities of the measures taken to implement the provisions of this paragraph.

5. Consignments of the Forces carried in transport other than their official transport shall be subject to normal German customs control but shall not be delayed thereby. However, consignments sealed by the authorities of the Forces or a customs administration shall be exempt from internal examination; this provision shall not be deemed to prevent German customs officials from examining the seals and, if necessary, adding German seals. Discrepancies discovered as a result of these controls shall be notified to the authorities of the Forces.

6. Additionally to the exemptions contained in Article 35 official couriers of the Forces shall be exempt from control by German customs authorities with regard to their courier luggage. They shall be accorded preferential treatment to ensure that they are not delayed.

7. Military units moving operationally under orders across the frontiers of the Federal territory shall be exempt from control by German customs authorities; provided that the officer in charge declares in writing that all practicable measures have been taken to ensure that neither the unit nor the members thereof carry goods in contravention of the provisions of this Article or of Article 35 of the present Convention. If practicable, prior notification of troop movements shall be given to the appropriate German customs authorities by the authorities of the Forces. These provisions shall not apply to frontier crossings made during military exercises or manoeuvres.

8. Imports and exports of goods in aircraft owned or operated by the Forces or on their behalf which land at, or take off from, a military airfield shall be subject to customs control by the authorities of the Forces. If such aircraft land at a civil airfield, they shall be subject to customs control by the authorities of the Forces; the German customs authorities shall notify the authorities of the Forces without delay If commercial aircraft land at a military airfield, the German customs administration shall be notified by the authorities of the Forces, which shall take all necessary measures to ensure that any goods carried shall not enter the German economy before the German customs authorities have had the opportunity to clear them.

9. With the exception of the property referred to in paragraph 11 of Article 39 of the present Convention, the authorities of the Forces may dispose of movable property of the Forces in the Federal territory Property disposed of for export to a purchaser not resident in the Federal territory shall not be subject to German export restrictions o export duties. The conditions under which the property referred to in this paragraph is disposed of shall be the subject of mutual agreement between the appropriate authorities of the Forces and the appropriate German authorities.

1. Subject to the provisions of the present Convention and of any other applicable agreement between the Federal Republic and the Three Powers or any one of them, members of the Forces shall in principle be subject to German customs legislation.

2. The prosecution of customs violations, including the right of confiscation of goods, shall be solely within the criminal jurisdiction of the authorities of the Forces. The German procedure for administrative fines in respect of customs violations shall not apply to members of the Forces. German customs authorities shall have a right to goods confiscated by the Forces, as a result of customs violations by their members, to the extent necessary to recover tax debts on such goods due as the result of a civil action.

3. Members of the Forces shall be exempt from the provisions of German legislation covering the use of firearms by German customs officials.

4. Subject to the following provisions, members of the Forces shall be exempt from German import and export restrictions or prohibitions on imports and exports and from the payment of customs duties and other Federal taxes on goods moved by them for their personal or domestic use or consumption into, or out of, the Federal territory:

(a) the right of unaccompanied import by members of the Forces shall not apply to those rationed goods which the Forces sell or distribute to their members;

(b) the authorities of the Forces shall quantitatively restrict the import by their members in accompanied baggage of those rationed goods which they sell or distribute to their members;

(c) accompanied and unaccompanied import of non-rationed goods shall be quantitatively restricted by the authorities of the Forces when they find, after considering the recommendations of the German authorities, that such goods are peculiarly the subject of customs violations;

(d) in order to certify to German customs authorities that non-rationed goods imported by members of the Forces through commercial channels, the German postal system, or in their accompanied baggage are for their personal or domestic use or consumption, the members of the Forces may obtain certificates from the authorities of the Forces, which shall be accepted as authorization to import in accordance with the terms of this Article;

(e) members of the Forces shall observe German regulations designed to preserve the health of humans, animals and plants.

5. For the purpose of customs control of members of the Forces, the authorities of the Forces may provide officials at frontier crossing points at which substantial numbers of members of the Forces cross. The authorities of the Forces shall establish these points in consultation with the Federal Government. At these points, the officials of the Forces, in co-operation with German customs authorities, shall

carry out customs control of members of the Forces and their property At all other crossing points members of the Forces shall be subjec to normal customs control by the German authorities. The provisions of this paragraph shall also apply to the movement of member of the Forces between the Federal territory and Berlin.

6. Customs control of goods consigned to and by members of th Forces through postal or freight systems of the Forces shall be exercised by the authorities of the Forces at points established by themselves. German customs officials may be present during these controls

7. Goods imported duty-free under the provisions of the presen Convention may be disposed of in the Federal territory by member of the Forces to a person other than a member of the Forces only i prior notification to, and with the approval of, the appropriate German authorities; this provision shall, however, not apply to customary gifts of a personal or domestic nature in non-commercial quantities

8. The authorities of the Forces shall take, within the framewor of the present Convention, appropriate measures to restrain thei members from committing offences against the fiscal, customs, an import and export regulations of the Federal Republic. They shal consider these factors—the recommendations of the Federal Government being taken into account—in the rationing of goods peculiarl subject to such violations. The rations established by the authoritie of the Forces shall not exceed the quantity reasonably required fo personal consumption. The authorities of the Forces shall co-operat closely with German customs officials and law-enforcing agencies i combatting customs violations.

9. The authorities of the Forces shall notify German custom authorities of any violations to enable, if necessary, civil action t be taken against the violators. Similarly, the German custom authorities shall notify the authorities of the Forces of any custom violations involving their members. The German customs authorities shall notify the authorities of the Forces of property or currenc seized from their members, and such property or currency shall b surrendered to the authorities of the Forces. Receipts shall be give by the German customs authorities to the members of the Force for any property or currency detained.

10. Motor vehicles of members of the Forces which are intended fo their personal use may enter and leave the Federal territory withou payment of customs duties and without restrictions, on presentatio of the registration certificate or other certificate issued by the authorities of the Forces certifying that the motor vehicle is owned by member of the Forces and intended for his personal use. The authorities of the Forces shall, upon request by the German customs authorities, give information about such vehicles. Vehicles for commercial purposes shall be excluded from this preferential treatment.

11. The import of goods by members of the Forces for charitabl disposal in the Federal territory shall be the subject of mutual agreement between the authorities of the Forces and the appropriat German authorities.

1. Subject to the provisions of this Article

(a) non-German organizations of a non-commercial character organized by the Forces or the Power concerned for the benefit of the members of the Forces, or which serve the welfare of the Forces, may be assimilated in whole or in part to the Forces, after notification to the German authorities, which notification shall state that such organizations are in the service of the Forces;

(b) if such organization is a club, it may be assimilated only to the extent that it is part of the catering or sports arrangements of the Forces.

2. The Forces may make use of non-German commercial enterprises provided that their military needs can not be satisfied by German enterprises. Such enterprises may be assimilated to the Forces,

(a) after notification to the German authorities, if they provide technical services under contract for the Forces, and

(b) in all other cases after consultation with the German authorities.

3. Employees of the organizations mentioned in paragraph 1 of this Article and of the enterprises mentioned in sub-paragraph (a) of paragraph 2 of this Article (other than Germans, and persons who are nationals neither of one of the Three Powers nor of another Sending State and have been engaged in the Federal territory) may similarly be assimilated to members of the Forces.

4. Assimilation to the Forces and their members shall be permitted only so far as the organizations, enterprises or employees are exclusively serving the Forces and to the extent that such assimilation is necessary for their contribution to the accomplishment of the defence mission of the Forces. The extent of such assimilation shall be stated in the notification or during the consultation. It may be restricted through further understandings to the necessary measure. The organizations, enterprises and employees may not engage in private commercial activities. The authorities of the Forces shall co-operate with the Federal Government in taking appropriate measures against misuse of these rights.

5. The assimilation of commercial enterprises referred to in sub-paragraph (b) of paragraph 2 of this Article shall be limited to the following:

(a) licensing and registering of motor vehicles in accordance with Article 17 of the present Convention;

(b) accommodation in accordance with Article 38;

(c) the right, under Article 34, to bring into the Federal territory, free from customs duties and other Federal taxes, goods to be sold to the Forces or to be placed at the disposal of the Forces;

(d) exemption from taxation under paragraphs 1 and 2 of Article 33 of the present Convention insofar as deliveries and other services by such undertakings to the Forces are concerned; in all other respects taxation shall be governed by the Agreement referred to in Article 33;

Forces in accordance with Articles 17 and 18;

(f) exemption, in respect of their services to the Forces, from German legislation on trade licensing and foreign companies;

(g) issuance of the necessary foreign exchange permits to enable them to carry out their functions, and the right to possess and use military scrip.

6. If employees of the organizations and enterprises under paragraphs 1 and 2 of this Article are also members of the Forces as defined in sub-paragraph (b) of paragraph 7 of Article 1 of the present Convention, the Forces may limit the extent to which the provisions of the present Convention apply to such employees. In this connection they shall take into consideration the recommendations of the German authorities.

7. The number of employees of the organizations and enterprises serving the Forces may not be increased by more than 100 percent of the number present at the entry into force of the present Convention, except in agreement with the German authorities.

Section II—Support

ARTICLE 37—SCOPE OF OBLIGATIONS

1. So far as is necessary to fulfil the defence purposes of the Forces, the Federal Republic undertakes to ensure that the requirements of the Forces and their members within the Federal territory are satisfied, subject to the provisions of the present Convention, or any other related Convention, in the following fields:

(a) accommodation (Article 38);

(b) goods, materials and services, including public utilities (Articles 39 and 40);

(c) transport services (Article 41);

(d) communication services (Article 42);

(e) other public services (Article 43).

2. The Federal Republic shall ensure that such suitable civilian personnel as is necessary to meet the requirements of the Forces consistently with military needs will be made available to the Forces by the competent German agencies (Article 44).

3. In order to fulfill the obligations undertaken by the Federal Republic in paragraph 1 of this Article, the Federal Republic shall enact legislation adequate to assure the procurement of goods materials and services, the provision of accommodation and the establishment of restricted areas.

4. Until the Federal legislation referred to in paragraph 3 of this Article enters into force, such obligations shall be fulfilled by the appropriate application, within the framework of the Basic Law,[1] of the provisions of the following Laws so far as they deal with the power to requisition goods, materials and services, to acquire accommodation and to establish restricted areas: the Law concerning Goods and

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[1] *Germany, 1947–1949: The Story in Documents* (Department of State publica

1939, the Law concerning the Provision of Land for the Purposes of the Wehrmacht of 29 March 1935; and the Law concerning the Restriction of Real Property for Reasons of Reich Defence (Schutzbereichgesetz) of 24 January 1935. The application of the Reich Laws referred to in the first sentence of this paragraph shall not extend to the computation of claims for remuneration and compensation, which shall be made pursuant to paragraph 3 of Article 12 of the Finance Convention.

ARTICLE 38—ACCOMMODATION

1. The authorities of the Forces shall each present to the appropriate Federal authority their needs for accommodation in the form of periodical programmes and where necessary supplementary programmes. When the Forces of two or more Powers stationed or to be stationed in the same locality have competing requirements for accommodation, joint discussions will be held between them with the object of reaching agreed accommodation programmes. Individual requests outside the programmes shall be kept to a minimum.

2. Programmes and individual requests agreed by the authorities of the Forces and the Federal authority shall be carried out by the appropriate German authorities after consultation with the authorities of the Forces and with particular regard to sites, standards and dates of availability. In such programmes, specific provision shall be made to meet any difficulties which may arise for the Forces from the operation of the provisions contained in the second sentence of paragraph 5 of this Article. Requirements of minor importance may be arranged directly between the authorities of the Forces and the appropriate German regional authorities.

3. In case of disagreement between subordinate authorities of the Forces and the German regional authorities, the matter shall be referred to the Federal authority for further joint consultation with the authorities of the Forces.

4. The Forces shall continually review their accommodation requirements in order to ensure that these requirements remain within the minimum consistent with the size and duties of the Forces. Accommodation which is no longer required, or for which alternative accommodation satisfactory to the Forces is made available, shall be released by the Forces.

5. Special attention shall be paid to the release of accommodation to private individuals. Privately owned dwellings shall be released if they are not used by the Forces for any period of six consecutive months. The German authorities shall be entitled to make a request to the Forces that the release of specific accommodation be discussed with them.

6. At the time of the release of a requisitioned dwelling or hotel all requisitioned movable property therein for which rental or hire is being paid shall also be released. When other requisitioned accommodation is released, the Forces will at the same time release requi-

paid except in cases in which the continued use of such property is requisite to the accomplishment of the Forces' defence mission. Ir such cases, the authorities of the Forces shall consult the Germar authorities. Such movable property shall also be released prior tc the release of accommodation provided that it is no longer requirec for use by the Forces or alternative property satisfactory to the Forces is made available by the German authorities. Objects of art and antiques shall be released by the Forces according to procedures to be agreed.

7. In implementing the first accommodation programme, if nc comparable alternative accommodation is available in the same area the Forces shall, for six months after the entry into force of the present Convention be entitled to the first option on such publicly owned accommodation included in the property referred to in Article 13 of Chapter One of the Convention on the Settlement of Matters Arising out of the War and the Occupation [1] as becomes available This shall not apply to accommodation in the Bonn Enclave.

8. If accommodation occupied by the Forces, such as target ranges training areas and airfields, is temporarily not being used by the Forces, it may be made temporarily available to the Federal Republic t its request, on condition that its renewed use by the Forces is not impaired thereby.

ARTICLE 39—GOODS, MATERIALS AND SERVICES

1. Procurement of goods and materials in the Federal territory foi the Forces and their members against Deutsche Mark or other currencies shall be within periodical programmes, except that the quantities so procured may exceed the quantities settled in such programmes by not more than 10 per cent or by such larger quantity as may be agreed by the German authorities. These periodical programmes shall take into account building materials as required for the implementation of Article 40 of the present Convention. The programmes shall not include minor procurements made in accordanc with the appropriate regulations of the Forces.

2. A Joint Supply Board shall be established, to be composed o representatives of the appropriate authorities of the Three Powers anc of representatives of the Federal Republic. The Board shall be responsible for establishing by agreement periodical programmes foi he procurement of the requirements of the Forces, and for resolvin any difficulties which may arise in the course of the implementatior of these programmes.

3. The requirements of the Forces for inclusion in the periodica programmes shall be presented to the Joint Supply Board as early as possible and at least two months before the commencement of the period concerned. The authorities of the Forces shall notify the German authorities, as early as possible, in advance of any majoi changes in requirements for public utilities (gas, water, electricity sewage).

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[1] *Infra*, pp. 566-567.

into account essential defence, export and civilian requirements. The Board shall determine and list goods, materials and services which are in short supply. The Board may require detailed classification of items which require significant quantities of goods, materials or services so listed.

5. The procurement of goods, materials and services, including building services, within the scope of paragraph 1 of this Article, shall be undertaken either directly by the authorities of the Power concerned in accordance with their normal contract procedure or, at their request, by the German authorities. The Federal Republic agrees to take appropriate measures to ensure that these requirements are accorded such priority over domestic and export non-defence requirements as is necessary and appropriate to ensure their timely supply to the Forces.

6. When the authorities of the Power concerned intend to place orders, within the agreed programmes, by direct procurement for goods, materials or services listed as being in short supply, they shall inform the German authorities. If the German authorities should find that, for reasons of supply or capacity, certain firms should be invited to bid, they shall nominate such firms within two weeks at the latest. The authorities of the Power concerned shall take these recommendations into due account in arriving at a final choice of contractors.

7. Information copies of all orders placed directly by the authorities of the Power concerned within the agreed programmes shall be forwarded to the German authorities.

8. When the requirements of the Forces for goods, materials and services are satisfied through procurement by the German authorities the authorities of the Power concerned shall be entitled to specify their requirements in all respects, including specifications, delivery periods and any other essential conditions. The German authorities in co-operation with the authorities of the Power concerned, shall ensure that these conditions are met to the satisfaction of the Forces The authorities of the Power concerned may reject any tender for good and cogent reasons, of which the German authorities shall be informed. Control of manufacturing shall be carried out by the German authorities; representatives of the Power concerned are entitled to participate in inspection. The acceptance of the fulfillment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Power concerned

9. The Forces, subject to the provisions of paragraph 1 of this Article, and also members of the Forces, may purchase goods and services locally for their own use under conditions not less favourable than those obtaining generally for residents of the Federal Republic.

10. All periodical requirement programmes for goods, materials and services for the support of the Forces, which have been initiated by the authorities of the Power concerned before the date of entry into force of the present Convention and in respect of which requirement

11. Goods procured from Reichsmark or Deutsche Mark occupation cost or mandatory expenditures funds, or from that part of the defence contribution of the Federal Republic which serves to support the Forces, shall not be removed from the Federal territory except such as are required for military purposes for the support of the Forces, or unless it is such military equipment as is customary for military units o take with them on moving. Where the authorities of the Forces decide that they no longer require such goods, they shall be transferred to the German authorities, unless a different arrangement for the disposal of such goods is agreed between them.

ARTICLE 40—BUILDING SERVICES

1. When it has been agreed that a portion of the accommodation programmes submitted under Article 38 of the present Convention shall be met by new construction, the authorities of the Forces shall inform the appropriate German authorities, at intervals related to the programmes under Article 39, of their building programmes, furnishing if possible details of the character, extent, location and required completion date of construction for each project and, as far as becomes necessary, supplementary details and alterations. The German authorities shall, without delay, communicate their comments to the authorities of the Forces. If necessary, joint consultation shall thereupon take place for the purpose of achieving an agreement which will enable the Forces to meet their defence mission.

2. The implementation of the building projects to be paid for from he German defence contribution shall be carried out by the Geran building authorities according to German legal provisions and established building regulations. The authorities of the Forces hall establish and notify to the German authorities their requirements as to specifications, shall participate in the planning, the invitation and opening of tenders and the letting of contracts and may reject any tender for good and cogent reasons, of which the German authorities shall be informed. The authorities of the Forces may inform themselves of the progress of the building operations at any time, inspect building records and demand information. The authorities of the Forces may at any time inspect the building operations but shall exercise supervision of the project through the German building authorities. Where the authorities of the Forces require subsequent deviation from contracts, their requirements shall be communicated to the German authorities in writing. The acceptance of the fulfilment of a contract shall be given to the contractor by the German authorities only with the written consent of the authorities of the Forces.

3. Repairs and maintenance shall be carried out by German authorities if requested by the authorities of the Forces in accordance with mutual agreements. The provisions of paragraph 2 of this Article shall apply *mutatis mutandis*.

4. This Article shall not apply to minor building projects, to building orders which have been placed before the entry into force of the

present Convention or to building orders as to which special understandings have been reached. The definition of minor building projects shall be fixed by bilateral agreement.

ARTICLE 41—TRANSPORT SERVICES

1. The Forces shall be entitled to use the German road, rail, water and air transport facilities for the transportation of persons, animals and materials into, throughout and from the Federal territory. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfilment of their defence mission and as is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. They shall be entitled to make contracts for transport services with transport undertakings.

2. Where the services required from public transport undertakings are in excess of those freely obtainable under generally applicable transport regulations, they shall be requested from the German authorities by the authorities of the Forces competent for transport matters for a major area. The same shall apply to transport services required from non-public transport undertakings, if these services are either in excess of routine services, or are required during periods of known short supply of transport as evidenced by restrictions placed on the furnishing of such transport services to the civilian economy. Details and procedure shall be regulated by special agreements.

3. The provisions of the following technical agreements and working arrangements, including documentation, between the Forces and the German transport authorities, as amended by mutual agreement, shall remain applicable until their dates of expiration:

(a) the three Tariff and Working Arrangements between the German Federal Railways and the United States, British and French Forces of 31 March 1950, 1 April 1950 and 1 Septembe 1950 respectively;

(b) the two agreements between the United States and Britis Armies and the Deutsche Schlafwagen- und Speisewagen-Gesellschaft of 30 April 1950 and 19 December 1950 respectively

(c) the agreements between the Allied Forces and the Vereinigte Tanklager and Transportmittel G. m. b. H. and the Federal Ministries for Transport and Finance of 13 September 1951, 17 December 1951, and 27 February 1952.

The provisions of these agreements shall be subject to review and modification at the request of either the Federal Republic or the Three Powers prior to their termination dates where they are inconsistent with the present Convention. If any of these agreements is not renewed by mutual consent beyond its present period of validity timely agreement shall be reached upon the respective conditions o service to be effective after its termination, which conditions shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defence mission of the Forces.

advance notice of their military movements requirements as practicable.

5. The Forces shall, upon the entry into force of the present Convention, have the right to retain any transport facilities and equipment hitherto reserved for their use, subject to joint reexamination of such use under the principles of the present Convention.

6. Members of the Forces shall be entitled to use German transport facilities within the scope of the generally valid traffic regulations.

7. Where the existing transport facilities and equipment available are not sufficient to meet the requirements of the Forces, the German authorities shall, on request approved by the highest Headquarters of the Forces concerned, extend or modify existing facilities or equipment already available or construct new facilities or equipment to the extent required. Paragraph 4 of this Article shall apply *mutatis mutandis*.

8. The Forces shall be entitled to undertake the construction of transport facilities within their installations insofar as public safety and order outside such installations are not thereby prejudiced. Prior to the execution of such work appropriate consultations shall take place with the German authorities.

9. The Forces may conclude agreements with the highest appropriate Federal authority for the official use, by the authorities of the Forces responsible for the arrangement of military movements, of German specialized telecommunications systems, provided that such use does not prejudice the operation of those systems.

ARTICLE 42—COMMUNICATIONS SERVICES

1. The public services of the posts and telecommunications system of the Federal Republic shall be available to the Forces and their members. In this respect the Forces shall enjoy such preferential treatment as is necessary for the satisfactory fulfilment of their defence mission and is consistent with the reasonable reconciliation of the requirements resulting therefrom and the essential civilian and defence requirements of the Federal Republic. The conditions of service effective on the entry into force of the present Convention shall remain in force. These conditions of service shall be subject to review and modification at the request of any one of the Signatory States, where they are inconsistent with the present Convention. In the event of such a review the conditions of service to be determined shall be consistent with the needs of the Forces and the conditions of service of their members in the performance of the defense mission of the Forces.

2. Upon demand, the Forces shall receive for permanent or temporary purposes telecommunications circuits for their exclusive use under the conditions set forth in paragraph 1 of this Article.

3. In case the German public post and telecommunications facilities are not sufficient to meet the requirements of the Forces, the German authorities will, upon request by authorized representatives of the highest commanding officers of the Forces, enlarge the existing facili-

ties or erect new facilities to the extent necessary. The Forces shall give the German authorities as much advance notice of these requirements as practicable. Such facilities shall be operated by the Federal Republic unless otherwise mutually agreed.

4. The provisions of Article 48 of the present Convention shall apply *mutatis mutandis* to communications facilities and equipment hitherto used by the Forces.

5. Communications facilities within Germany belonging to the Forces may be made available to the Federal Republic when such facilities are available as determined by the Forces. The conditions of service referred to in paragraph 1 of this Article shall apply *mutatis mutandis* to such facilities.

ARTICLE 43—OTHER PUBLIC SERVICES

1. The Forces and their members are entitled to use or receive German public and administrative services not specifically provided for elsewhere in the present Convention, to the extent required by the defence mission of the Forces or normally received by the residents of the Federal Republic.

2. The authorities of the Forces and the German authorities shall co-operate in the meteorological and cartographical fields in order to fulfil the defence requirements of the Forces.

ARTICLE 44—LABOUR

1. The Forces shall notify the competent German authorities as soon as possible of their requirements for civilian personnel and shall normally obtain labour through these authorities. The services of the competent German authorities shall be made available to members of the Forces for obtaining suitable civilian labour.

2. Germans who are working in the service of the Forces shall be subject to all obligations arising from the arrangements for the German Defence Contribution. They shall only be engaged on services of a non-combatant character including civilian guard duties.

3. German labour law, as applicable to the Federal authorities, with the exception of tariff regulations, shall apply to work with the Forces except as otherwise provided in this Article. When necessary, a Mixed Commission, established under paragraph 10 of this Article, shall, at the request of the highest authorities of the Forces, examine whether and to what extent particular provisions of German labour law are inconsistent with the military needs of the Forces. The findings of this Commission shall be duly taken into account by the appropriate German authorities in accordance with Article 3 of the present Convention.

basis for individual working agreements), and may conclude tariff agreements;

(b) regulate payment procedures.

6. The authorities of the Forces have, in connection with the labour referred to in this Article, the rights of engagement, placement, training, transfer with the consent of the worker, dismissal and acceptance of resignations.

7. The authorities of the Forces shall determine the number of jobs required and classify such jobs in accordance with the job groupings established under sub-paragraph (a) of paragraph 5 of this Article. The individuals to fill such jobs shall be provisionally classified by the authorities of the Forces into the appropriate wage and salary groups. The latter classification shall be subject to the approval of the competent German authorities. Such approval shall be deemed to have been given, unless the German authorities notify an objection within two weeks of the date of receipt of notification of the provisional classification. In such cases the appropriate classification shall be determined by consultation between the authorities of the Forces and the German authorities. The remuneration for the period covered by the provisional classification shall be paid according to the final classification. The worker shall be so informed at the time of the provisional classification.

8. Claims of individual workers arising out of work with the Forces shall be lodged against the Federal Republic. They shall be subject to German labour jurisdiction. However, in disputes arising out of dismissals on security grounds, a Mixed Commission, established under paragraph 10 of this Article, shall, upon request of the designated authorities of the Forces, determine whether the dismissal with or without notice was justified; the decision shall be binding on German labour courts. Such request shall be made without delay and at the latest within one month after notification to the authorities of the Forces of the filing of the suit. The individual concerned shall be entitled to make a factual or legal statement before the Commission.

9. For the protection of their interests, those engaged on work with the Forces may set up Works Councils, whose task shall be to make suggestions and to present grievances or complaints to the appropriate authorities of the Forces. Such Councils shall be entitled to be heard by the appropriate authorities of the Forces. Grievances or complaints not resolved in this manner may be referred to the competent German authorities for further discussion with the authorities of the Forces.

10. The Mixed Commissions referred to in paragraphs 3 and 8 of this Article shall be composed equally of representatives of the appropriate authorities of the Three Powers and of representatives of the Federal Republic. They shall decide by majority vote; they shall establish their own rules of procedure, which may include provisions for action by sub-committees. If a Commission or sub-committee can not reach a decision by majority vote, the Power or Powers concerned and the Federal Republic shall appoint an individual who shall participate in the decision.

ARTICLE 45—CIVILIAN SERVICE UNITS

1. The Forces shall have the right to maintain civilian service organizations consisting of non-German nationals.

2. The existing civilian service organizations consisting of Germans

(a) shall be disbanded in co-operation with the competent authorities of the Federal Republic not later than at the end of the two-year period commencing on the entry into force of the present Convention. The Three Powers and the Federal Republic shall enter into discussions before the end of this period with a view to taking measures to ensure that the strength and effectiveness of the Forces shall not be impaired as a result of such disbandment;

(b) shall not be required to serve outside the Federal territory.

3. Article 44 of the present Convention shall apply except as otherwise provided in this Article.

4. Members of the civilian service organizations may receive housing and subsistence as a part of their remuneration. When at work, they may be required to wear uniform working clothing when appropriate.

5. The terms and conditions of employment, within the meaning of sub-paragraph (a) of paragraph 5 of Article 44 of the present Convention, in effect on the entry into force of the present Convention shall as soon as possible be reviewed and made broadly uniform by agreement between the authorities of the Forces and the German authorities.

6. The authorities of the Forces shall carry out the classification of the members of the civilian service organizations; they shall inform the appropriate German authorities of such classification and shall give due consideration to any suggestions for amendment made by the latter.

ARTICLE 46—HUNTING AND FISHING

1. The Federal Republic shall take such steps as lie within its competence in order to grant and have granted to the members of the Forces special hunting and fishing privileges on Federal lands. It shall use its good offices with the Länder and all German authorities and political sub-divisions to do the same in respect of other public lands. In granting such special privileges the following general principles shall be observed.

2. The members of the Forces shall

(a) observe German regulations on hunting and fishing, in particular as regards proper hunting and fishing methods;

(b) comply with German game plans (Abschussplaene);

(c) for cloven-hoofed game (Schalenwild) always be accompanied by a licensed hunter or forester, for whose services reasonable fees shall be paid;

(d) pay a combined annual fee for hunting, the amount of such fee to be determined in agreement with the Federal or Land authorities as appropriate. Such fee shall be in place of al other applicable taxes, fees, charges and expenses. In fixing such fee, due regard shall be paid to the circumstances unde which members of the Forces live in the Federal territory;

(e) in like manner pay a reasonable fee for fishing privileges

3. The Forces shall have the right to issue hunting and fishing icenses but only to members of the Forces familiar with Germa hunting and fishing legislation, and, in the case of hunting, with th use of hunting weapons. The members of the Forces shall respec private property rights.

4. The Federal authorities shall take all measures within thei power to stimulate voluntary arrangements with members of th Forces where private property rights are involved, and shall encourag invitations to the members of the Forces on the part of owners o lessees of private preserves or on the part of holders of correspondin rights.

5. Contracts pertaining to hunting and fishing rights in effect a the entry into force of the present Convention shall remain in forc if such contracts have been freely made under German law and provide for payment for such rights at the then market price. All othe rights relating to hunting and fishing heretofore requisitioned o reserved shall expire not later than one month after the entry int force of the present Convention.

6. The rights and obligations of the Forces in this field may be mor closely defined in special agreements between the Forces and th Federal or the Land authorities.

ARTICLE 47—BERLIN

1. Goods, materials and services provided in accordance with th resent Convention may be used and enjoyed by the armed Force of any Power concerned, stationed in Berlin.

2. [Deleted.]

ARTICLE 48—CONTINUATION OF EXISTING SUPPORT

1. Where goods, materials, services or accommodation have bee equisitioned by the authorities of the Power concerned or procure on occupation costs or mandatory expenditures budgets before th date of entry into force of the present Convention and continue thereafter to be required by the Forces, they shall be deemed to be requisitioned with binding legal effect for a period of one year from tha date under the provisions of the applicable legislation referred to i paragraphs 3 and 4 of Article 37 of the present Convention.

2. Where the goods, materials, services or accommodation ar required for the purposes of the Forces and their members beyond th period fixed in paragraph 1 of this Article, the Federal Republic shal guarantee their continued availability in accordance with the procedure of the applicable Federal legislation.

ARTICLE 49

[Deleted.]

ARTICLE 50

[Deleted.]

ARTICLE 51—REVIEW

Without prejudice to the provisions of Article 10 of the Convention on Relations between the Three Powers and the Federal Republic of Germany the present Convention may be reviewed at the request of one of the Signatory States at any time after two years after its entry into force.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

Done at BONN this twenty-sixth day of May, 1952, in three texts, in the English, French and German languages, all being equally authentic.

. . . .

ANNEX A

PENAL PROVISIONS FOR THE PROTECTION OF THE THREE POWERS, THEIR FORCES AND THE MEMBERS OF THE FORCES

TITLE I—TREASON IN MILITARY MATTERS

Section 1

1. For the purpose of this Title, the term "military secrets" shall mean facts, objects, conclusions and discoveries, in particular writings, drawings, models or formulas, including codes, or information concerning them, which are kept secret out of consideration for the security of one of the Three Powers or of the Forces, as defined in Article 1 of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany.

2. For the purpose of this Title, treason shall be deemed to be committed by anyone who wilfully lets an unauthorized person have access to a military secret or makes such secret public and thereby endangers the security of one of the Three Powers or of the Forces.

Section 2

1. Whoever betrays a military secret shall be punished by imprisonment with hard labour (Zuchthaus).

2. Whoever procures a military secret in order to betray it shall

be punished by imprisonment with hard labour (Zuchthaus) not exceeding ten years.

3. Whoever, without authority, procures or attempts to procure a military secret or whoever, having otherwise without authority obtained possession of such secret, fails to report it forthwith to the competent authority of the Forces or, in the event that the secret is an object, fails to deliver it on demand shall be punished by imprisonment.

4. Paragraph 3 of Section 100 of the Criminal Code, as amended by the Law of 30 August 1951 (Bundesgesetzblatt Teil I Seite 739), shall not apply to military secrets.

Section 3

1. Whoever wilfully lets an unauthorized person have access to a military secret or makes it public and thereby, through negligence, endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment.

2. Whoever, through negligence, lets an unauthorized person have access to a military secret to which the offender had access by virtue of his office or position in the service, or by virtue of a commission received from an official agency and thereby endangers the security of one of the Three Powers or of the Forces shall be punished by imprisonment not exceeding two years. The offence shall be prosecuted only upon authorization of that Power concerned or of those Forces whose security has been endangered.

Section 4

1. Whoever, with intent to prejudice the security of one of the Three Powers or of the Forces, procures, collects, publishes or communicates to another person information concerning military affairs of the Forces, or for such purpose operates an information service, or hires others to engage in, or supports, such activities shall be punished by imprisonment. The attempt is punishable.

2. In especially serious cases, the penalty shall be imprisonment with hard labour (Zuchthaus) not exceeding five years.

Section 5

1. Whoever, with intent to procure without authority a military secret, or to collect information on military matters for the purpose of prejudicing the security of one of the Three Powers or of the Forces (paragraphs 2 and 3 of Section 2; Section 4) enters, or loiters in the vicinity of military installations, war vessels or aircraft of the Forces shall be punished with imprisonment.

2. The term "military installations" shall include, but not be limited to, areas restricted for security reasons by official notice and industrial establishments where supplies required for the Forces are produced. repaired or stored.

Whoever, without permission of the competent authority, takes photographs within an area restricted for security reasons by official notice, takes photographs of a building in which arms or other supplies required for the Forces are produced or stored, or of any other military installation, makes sketches of such objects, or puts such photographs or sketches into circulation shall be punished by imprisonment or a fine or both.

Section 7

1. Whoever establishes or maintains relations the object of which is supplying information within the meaning of Sections 1 and 4 with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person acting for such government, party, association or institution shall be punished with imprisonment.

2. Whoever, acting for a government, a party, any other association or an institution outside the Federal territory and Berlin (West), establishes relations of the type described in paragraph 1 of this Section with another person or maintains such relations shall be punished in like manner.

Section 8

1. Whoever, with intent to cause or promote a war, an armed enterprise or measures of compulsion against one of the Three Powers of the Forces, establishes or maintains relations with a government, a party, any other association or an institution outside the Federal territory and Berlin (West), or with a person acting for such government, party, association or institution, shall be punished by imprisonment with hard labour (Zuchthaus).

2. If the offender acts with intent to cause or promote such other measures or plans of a government, a party, any other association or an institution outside the Federal territory and Berlin (West) as are designed to prejudice the security of one of the Three Powers or of the Forces, the penalty shall be imprisonment. The attempt is punishable.

3. Whoever, with intent to cause or promote one of the measures or plans specified in paragraphs 1 and 2 of this Section, makes or circulates untrue or grossly distorted statements of facts shall be punished by imprisonment. The attempt is punishable.

4. In especially serious cases under paragraph 1 of this Section the penalty may be imprisonment with hard labour (Zuchthaus) for life; in especially serious cases under paragraphs 2 and 3, the penalty may be imprisonment with hard labour (Zuchthaus).

Section 9

1. For acts punishable under this Title there may be imposed:

In addition to the penalties under Section 2 and paragraph 1 of Section 8, a fine of unlimited amount;

paragraphs 2 and 3 of Section 8, a fine;

In addition to imprisonment of not less than three months imposed for a wilfully committed offence, for a period of one to five years, incapacity to hold public office and the loss of the right to vote and to be elected as well as the loss of rights acquired through public election;

In addition to imprisonment of any type imposed under Sections 2, 4, 5, 7 and 8, authorization to place the convicted person under police supervision.

2. Section 86 of the Criminal Code, as amended by the Law of 30 August 1951, shall apply *mutatis mutandis*.

TITLE II—SABOTAGE

Section 10

1. Whoever wilfully damages, destroys, renders unserviceable or displaces military equipment of the Forces or an installation intended for defence within the meaning of Article 4 of the Convention on Relations between the Three Powers and the Federal Republic of Germany[1] and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment for not less than three months. In serious cases, imprisonment with hard labour (Zuchthaus) shall be imposed.

2. Whoever wilfully manufactures or delivers in a defective manner military equipment or a defence installation or raw material reserved for defence and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished in like manner.

3. The attempt is punishable.

4. Whoever acts in a grossly negligent manner and thereby endangers negligently the security of the Forces or their readiness for action shall be punished by imprisonment.

Section 11

Whoever unlawfully obstructs or disturbs the Forces or individual members of the Forces in the exercise of their official duties and thereby wilfully endangers the security of the Forces or their readiness for action shall be punished by imprisonment, unless a more severe penalty is provided for the act by other provisions.

TITLE III—UNDERMINING THE WILLINGNESS TO SERVE AND THE DISCIPLINE OF THE FORCES

Section 12

1. Whoever influences members of the Forces with intent to undermine their willingness to serve with the Forces shall be punished by imprisonment.

2. The attempt is punishable.

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[1] *Supra*, p. 487

3. In especially serious cases, imprisonment with hard labour (Zuchthaus) not exceeding five years may be imposed.

Section 13

1. Whoever induces a member of the Forces to desert or facilitates the desertion of a member of the Forces shall be punished by imprisonment for not less than three months.
2. The attempt is punishable.
3. In especially serious cases, imprisonment with hard labour (Zuchthaus) not exceeding ten years may be imposed.

Section 14

Whoever solicits or incites a member of the Forces to disobey a superior shall be punished by imprisonment not exceeding two years.

TITLE IV—VILIFYING THE FORCES

Section 15

Whoever publicly vilifies the Forces or maliciously and deliberately exposes them to contempt shall be punished by imprisonment.

TITLE V—APPLICATION OF PROVISIONS OF THE GERMAN CRIMINAL CODE IN FAVOUR OF THE FORCES

Section 16

The following provisions of the Criminal Code shall apply *mutatis mutandis* in favour of the Forces:

(a) Sub-paragraph 2 of paragraph 1 and paragraph 2 of Section 96 to acts directed against the national symbols of the Forces;

(b) Sections 113, 115 and 116—to resistance, riot and unlawful assembly, if these offences are committed against the Forces, their soldiers, officials or such of their employees as were summoned to assist them;

(c) Section 115—to coercion committed against the Forces, their soldiers and officials;

(d) Sections 120, 121, 122b and 347—to acts against the detention of prisoners held by the Forces or committed upon their orders to an institution;

(e) Sections 123 and 124—to trespass committed against the peace of the premises of the Forces which are assigned to public service and traffic;

(f) Section 132—to falsely impersonating a soldier or an official of the Forces and to unauthorized exercise of official functions of such persons;

(g) Section 333—to bribing soldiers or officials of the Forces or such of their employees as have been formally bound to conscientious fulfilment of their duties under general or special instructions of a superior authority.

PROVISIONS ON RADIO FREQUENCIES[1]

[Not reprinted here]

16. FINANCE CONVENTION, MAY 26, 1952, AS AMENDED BY SCHEDULE III TO THE PROTOCOL ON THE TERMINATION OF THE OCCUPATION REGIME IN THE FEDERAL REPUBLIC OF GERMANY, OCTOBER 23, 1954[2]

THE UNITED STATES OF AMERICA,
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
THE FRENCH REPUBLIC
and the
FEDERAL REPUBLIC OF GERMANY,

Agree as follows:

ARTICLE 1

1. In the present Convention the following terms shall, unless the context otherwise requires, have the same meanings as are given to them in Article 1 of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany[3] (hereinafter referred to as "the Forces Convention"):

The Federal territory;
The Three Powers;
Other Sending State;
The Power concerned;
The Forces;
Authorities of the Forces;
Members of the Forces;
Accommodation.

2. In the present Convention the following additional terms shall be given the meanings hereinafter indicated:

(a) Authorities of the Power concerned: The authorities of the Power concerned, including the authorities of its Forces.

(b) Deleted.

(c) Funds for the support of the Forces: Funds of the Federal Republic which are made available in accordance with paragraphs 1 to 3 of Article 4 of the present Convention to the Powers in the Federal territory and their members.

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[1] For text, see S. Doc. No. 11, 84th Cong., 1st sess., pp. 57–58, which incorporates the amendments of Schedule II.

[2] *The Bonn Agreements of 1952 as Amended by the Paris Protocol of 1954* (S. Doc. No. 11, 84th Cong., 1st sess.), pp. 59–75. For the 1952 text of this convention, see S. Execs. Q and R, 82d Cong., 2d sess., pp. 135–150.

[3] *Supra*, pp. 498–500.

ARTICLE 2

The authorities of the Powers concerned and the German authorities shall extent [extend] to each other full co-operation and assistance to further the purposes of the present Convention, shall exchange all information available to any of them which may be necessary for the implementation of the present Convention, and shall afford to each other the services of any of their respective agencies to assist in the satisfactory implementation of the present Convention.

ARTICLE 3

[Deleted.]

ARTICLE 4

1. (a) From the entry into force of the present Convention until the entry into force of the arrangements for the German Defence Contribution,[1] the Federal Republic will provide a monthly average contribution of DM 600 million as funds for the support of the Forces.

(b) Out of the sum of DM 600 million referred to in sub-paragraph (a) of this paragraph a sum of DM 100 million a month will be earmarked for particular defence measures agreed jointly between the Three Powers and the Federal Republic, which latter sum will include expenditure for the NATO Infrastructure Programme. Payment of claims for Occupation damages can be included.

(c) The provisions of sub-paragraphs (a) and (b) of this paragraph apply in any case only until 30 June 1955. If the arrangements for the German Defence Contribution enter into force after that date, negotiations shall take place between the Federal Republic and the Three Powers concerning the contribution of the Federal Republic to the support of the Forces for the period after 30 June 1955 and before the entry into force of the arrangements for the German Defence Contribution.

2. During the first twelve months after the entry into force of the arrangements for the German Defence Contribution, the Federal Republic will make available as funds for the support of the Forces a total amount of DM 3,200 million. These funds shall be made available as follows:

DM 400 million a month for the first two months;
DM 300 million a month for the next four months;
DM 200 million a month for the last six months.

If the arrangements for the German Defence Contribution enter into force after 30 June 1955, these provisions shall not apply, and negotiations shall take place between the Federal Republic and the Three support of the Forces for a period not exceeding twelve months after the entry into force of the arrangements for the German Defence Contribution.

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[1] See the Protocols of Oct. 23, 1954, to the North Atlantic Treaty and to the Brussels Treaty; *infra*, pp. 871–873 and 972–980.

3. The Three Powers recognize the right of the Federal Republic to propose that the provisions of paragraph 2 of this Article be re-examined should it consider that the burden imposed by the build-up of the agreed German forces justifies such re-examination. In this event, the Signatory States will examine all the relevant factors and if found necessary will agree to amend the above provisions on funds for the support of the Forces.

4. In accordance with the spirit of Article 3 of the North Atlantic Treaty[1] the Federal Republic agrees that at the end of the period laid down in paragraph 2 of this Article it will be prepared to negotiate with other member Governments of the North Atlantic Treaty Organization who have forces stationed in the Federal territory in respect of questions relating to the support (for example, goods and services) of those forces having regard to the requirements of the forces of the Federal Republic.

5. Funds to be made available in accordance with paragraphs 1 to 3 of this Article for one period of time may be utilized in other periods in accordance with the provisions of paragraph 6 of this Article. The Three Powers will be responsible for allocating or re-allocating among the Powers concerned, after consultation with the Federal Government, the amount made available in accordance with this Article. The provisions of Article 5 of the present Convention shall apply to the expenditure of these funds except to the extent that such funds are expended in accordance with sub-paragraph (a) of paragraph 6 of this Article.

6. The only expenditures chargeable to the funds for the support of the Forces made available in accordance with paragraphs 1 to 3 of this Article shall be:—

(a) Amounts expended on payment authorizations issued after the entry into force of the present Convention to satisfy liabilities for accommodation, goods, materials or services procured or ordered before the entry into force of the present Convention by the authorities of the Powers concerned as a charge to occupation costs or mandatory expenditures, to the extent that such amounts are not covered by unexpended occupation costs and mandatory expenditure funds remaining available to the Three Powers for the purpose after the entry into force of the present Convention;

(b) Amounts expended on payment authorizations issued before the end of the period covered by paragraph 2 of this Article under the Deutsche Mark budgets of the Powers concerned established in accordance with Article 5 of the present Convention. To the extent that the funds provided under paragraph 1 of this Article have not been fully expended to meet payment authorizations issued before the end of the period covered by that paragraph they will remain available to the Forces for a period of eighteen months for the liquidation of liabilities then outstanding which are chargeable to the funds for the support of the Forces. A corresponding procedure will apply to the funds made available in accordance with paragraph 2 of this Article; however, the latter funds will remain available to the Forces after the end of the relevant period for twelve months; and

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[1] *Infra*, p. 813.

(c) Amounts expended for such other purposes as may be agreed between the Federal Republic and the Three Powers.

7. The Three Powers undertake to make a consistent effort to ensure that the carry over will not increase and shall be substantially reduced as rapidly as possible. The authorities of the Three Powers and the Federal Republic will co-operate fully for this purpose and will assist each other by exchanging relevant information and in any other appropriate ways. The carry over within the meaning of this paragraph is that part of the funds made available by the Federal Republic for occupation costs and mandatory expenditures which has not been disbursed, together with that part of the funds made available in accordance with paragraph 1 of this Article which has similarly not been disbursed.

ARTICLE 5

1. Funds for the support of the Forces shall be expended exclusively for that purpose. The Three Powers undertake to keep the costs chargeable to these funds to the minimum compatible with the military efficiency of the Forces of the Powers concerned, and to utilize the funds efficiently and economically.

2. Budgets will be established by each of the Powers concerned, and the expenditure of funds for the support of the Forces shall be in accordance with such budget categories and within such limits of amount as are established in the estimates prepared by the Powers concerned at the time of the agreement on the sum to be made available under the present Convention. Each of the Powers concerned may freely transfer amounts among the different categories of its budget provided that such transfers result in a change of not more than 10 per cent in the amount originally established for any major category. Advance notice of such transfers will be given to the Federal Republic in order to enable it to make its recommendations. Transfers which result in a change of more than 10 per cent may be effected by agreement between the Three Powers and the Federal Republic.

3. The Powers concerned and the Federal Republic may, by special agreement, consolidate in a special budget the expenditures for construction in the Federal territory of

(a) accommodation for the Forces of the Powers concerned or for the Forces of German origin,

(b) the installations and works referred to in Article 20 of the Forces Convention,[1]

and the expenditures for the acquisition of sites therefor.

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[1] *Supra*, p. 513.

1. Subject to the provisions of Article 4 of the present Convention, the Federal Republic shall take all steps necessary to make available, as required, the funds for the support of the Forces.

2. Except as provided in paragraph 4 of this Article, such funds shall be disbursed by the appropriate German payment offices on the basis of payment authorizations issued by the appropriate authorities of the Forces. These payment authorizations shall certify that payment within the appropriate budget category of the Power concerned is authorized in accordance with the terms of the present Convention, and appropriate documentation of services rendered shall be attached. In the amount specified by the payment authorization, the appropriate German payment offices shall, after presentation of the payment authorization, effect the payment so certified. The authorized representatives of the Power concerned may examine the German records relating to the payments made by the appropriate German payment offices.

3. Accounts of expenditures and receipts shall be kept by each Power concerned, on the one hand, and by the Federal Republic, on the other hand, and shall conform with uniform nomenclature agreed by the Three Powers and the Federal Republic. If the accounts of the Federal Republic and those of any of the Powers concerned are not in agreement, after each has been audited in accordance with the procedures applicable under German law or regulations or the law or regulations of the Power concerned, as the case may be, reconciliation shall be made under procedures to be established by the Co-ordinating Committee to be set up pursuant to Article 14 of the present Convention. Reports of expenditures and receipts shall be made periodically to the Co-ordinating Committee.

4. The Powers concerned may obtain from German payment offices funds for payment through their own agencies of

(a) minor expenditures in accordance with the regulations of the Power concerned, or

(b) any other expenditures which it is agreed require such procedure.

These expenditures shall be certified and documented in accordance with paragraph 2 of this Article.

ARTICLE 7

1. The following types of facilities and services shall be used or enjoyed by the Forces, for themselves and for their members, without charge:

(a) Administrative services or assistance of German public agencies, unless agreed to be of a special character warranting payment;

(b) Roads, highways, bridges;

(c) Navigable waters, unless fees for services rendered are payable under German regulations applicable from time to time to military users;

unless agreed to be of a special character warranting payment;

(e) Other public services and facilities normally enjoyed by residents of the Federal territory without payment of a specific charge;

(f) Meteorological, topographical and cartographical facilities and services, unless agreed to be of a special character warranting payment;

(g) The following types of property, except in respect of repairs and maintenance:

(i) property belonging to the Federal Republic, other than property administered by the German Federal Railways or Federal Post, unless it is agreed that an exception should be made in the case of property acquired after the entry into force of the present Convention for use for purposes other than defence;

(ii) property previously owned by the former Reich which is subject to the administration of the Federal Republic in accordance with the Law for a Provisional Settlement of the Legal Status of Reich Property and the Prussian Shares of 21 July 1951 (Bundesgesetzblatt Teil I Seite 467) and the Ordinance for the Implementation of Article 6 of that Law of 26 July 1951 (Bundesgesetzblatt Teil I Seite 471), other than property administered by the German Federal Railways or Federal Post;

(iii) property which has been constructed or procured by expenditures either from occupation costs or mandatory expenditures or from funds for the support of the Forces except that:

(1) where property, other than property used without charge under items (i) and (ii) of this sub-paragraph has been reconstructed by such expenditures, rent shall be paid in an amount to be reduced in the same proportion as the cost of reconstruction bears to the total value of the property; and

(2) ground rent shall be paid for sites which are not the property of the Federal Republic.

2. If property of any of the Länder is used by the Forces, for themselves or their members, the Federal Republic undertakes to ensure that the Forces are relieved from liability for any claims of the Land concerned to compensation for such use under German law.

3. With respect to property used free of charge under sub-paragraph g of paragraph 1 and property referred to in paragraph 2 of this Article, the Federal Republic will satisfy the owner's liability, if any, under German law to pay land taxes.

4. Members of the Forces shall in their own right receive or enjoy free of charge such services or facilities as are normally enjoyed by other persons in the Federal territory without charge.

5. Military aircraft of any Power concerned (including aircraft operated under the control of the Forces of such Power) shall not

the Federal territory, unless, in the case of airfields not owned o administered by the Federal Republic, fees are payable under Germa regulations applicable from time to time to military users. No fe shall be charged for landing by such aircraft in distress.

6. In general the cost of the construction, repair and maintenanc of transport and communications facilities, installations and equip ment, and public utility facilities, which serve common civilian an military use shall not be charged to the defence contribution of th Federal Republic. Where, however, these facilities are not revenu producing and the civil use is small or where there are any othe special circumstances which justify a departure from the general rule the extra costs attributable to the military requirements will by prio specific agreements be shared or borne, as the case may be, by th Forces.

ARTICLE 8

1. Subject to the provisions of Article 9 of the present Convention claims in respect of loss or damage caused, after its entry into force by acts or omissions of the Forces in the Federal territory shall b dealt with in accordance with the provisions of this Article and shal not be asserted otherwise than in accordance with such provisions

2. The following shall be deemed to be acts or omissions of th Forces:

(a) an act or omission of a member or employee of the Forces or of a person working for the Forces pursuant to Article 44 o 45 of the Forces Convention, in the performance of his officia duties;

(b) an activity of the Forces;

(c) an act or omission causing damage in excess of fair wea and tear to accommodation or movable property made availabl for use by the Forces in accordance with the Forces Convention where such damage occurs in the course of such use;

(d) an act or omission of a member of the Forces taking par in manoeuvres of the Forces causing damage to immovabl property.

3. Damage caused to accommodation or movables which have been nade available for use by the Forces shall be deemed to be caused o he date of its release by them, and the claim shall be deemed first t rise on that date.

4. In determining whether and to what extent compensation shal oe paid for loss or damage caused by acts or omissions of the Forces he appropriate agencies of the Forces shall give due consideratior o the provisions of German law which would determine the liability of the Federal Republic in similar circumstances. Claims shall b letermined without regard to the exemptions from German traffi egulations to which the Forces are entitled under paragraphs 3 and of Article 17 of the Forces Convention.

5. No claim shall be dealt with under this Article in respect of

(a) damage to public roads, highways, bridges, navigable waterways and other traffic facilities resulting from their use by purposes;

(b) loss of, or damage to, any property used by the Forces free of charge under item (iii) of sub-paragraph (g) of paragraph 1 of Article 7 of the present Convention;

(c) loss or damage arising under contracts or quasi-contractual relationships.

6. A claimant shall be deemed to have waived his claim against the Forces if he does not file it within ninety days of the time when he first knew of the loss or damage, unless there was reasonable excuse for his failure to file the claim within such period, particularly if he did not know against whom the claim should be asserted. Any claim not received by the agency of the Forces within one year of the date of the incident causing the loss or damage or, in the case of loss or damage referred to in sub-paragraph (c) of paragraph 2 of this Article, within one year from the release of the property, shall not be dealt with.

7. Claims shall be filed with the appropriate German agencies in a form to be agreed between the German authorities and the Forces of the Power concerned.

8. The German agency shall

(a) immediately forward to the appropriate agency of the Forces of the Power concerned such particulars of the claim as the latter agency may require; and

(b) investigate the claim within a reasonable time and make a reasoned recommendation thereon to the agency of the Forces.

9. The agency of the Forces shall consider whether and to what extent compensation should be paid for the loss suffered. It shall notify the claimant and the German agency of its decision. If the claimant accepts in full satisfaction of his claim the amount of the compensation awarded by the agency of the Forces, payment shall be made in accordance with procedures to be agreed between the Federal authorities and the Forces of the Power concerned.

10. If the claimant does not accept the compensation offered, or does not agree with the rejection of his claim, he may, within two months after he has been notified of the decision, bring an action upon his claim in the ordinary German courts against the Federal Republic.

11. The appropriate agencies of the Forces shall make available to the German authorities, upon request, information and evidence in their possession which would assist in the defence of such an action, insofar as they may do so under the regulations of the Power concerned.

12. The appropriate agency of the Forces may, if it so desires, participate in any such action against the Federal Republic by

(a) requiring the Federal Republic to plead certain defences or to appeal, or

(b) appearing as a third party defendant (Nebenintervenient) in accordance with the provisions of the German Code of Civil Procedure.

13. The appropriate German agency shall notify the agency of the Forces of the judgment in any such action and the grounds given

(a) if the authorities of the Forces participated in the actio against the Federal Republic as provided in paragraph 12 of this Article, the decision of the agency shall be modified so as to accor with the judgment; but

(b) if the authorities of the Forces did not participate in the action, the agency of the Forces shall, upon request of the Germa authorities, reconsider its decision taking into account the judgment of the court. If upon such reconsideration the agency intends to adhere to its original decision, it shall inform the German authorities of that intention and shall give the Germa authorities an opportunity to state their views.

Any compensation payable upon a final decision taken in accordance with this paragraph shall be paid under the procedures referred to in paragraph 9 of this Article.

14. Compensation awarded under a decision of an agency of the orces shall, for the periods specified in paragraphs 1 and 2 of Article 4 of the present Convention, be chargeable to the funds for the support of the Forces of the Power concerned unless otherwise agreed between the Federal Republic and the Power concerned. An agreement between the Federal Republic and the United Kingdom of Great Britain and Northern Ireland in that regard and in relation to ancillary procedure is annexed to the present Convention as Annex A. A imilar agreement between the Federal Republic and the United States of America is annexed to the present Convention as Annex B.

15. Notwithstanding the other provisions of this Article, claims in respect of damage caused to accommodation or movables which have been made available for use by the authorities of the Power concerned before the entry into force of the present Convention, and released by them after the end of the period covered by paragraph 2 of Article of the present Convention shall be determined by the German authorities and shall not be charged to the funds for the support of the Forces, or to the Power concerned.

16. Claims of inhabitants of the Federal territory against persons who are members of the Forces by reason of a military service relationship or employees of the Forces who are nationals of the Powers concerned, which arise from acts or omissions outside the performance of official duties for the Forces, may be asserted, determined and satisfied in accordance with paragraphs 6, 7, 8, 9 and 14 of this Article. The normal remedies of the claimant against the person who caused the loss or damage shall remain unaffected, unless the claimant accepts payment of an award made by an agency of the Forces in final settlement of the claim. The first sentence of this paragraph shall not apply to claims for which the person causing the loss or damage is covered by a contract of liability insurance or pays compensation out of his own means.

17. If in any civil action before a German court involving any claim covered by this Article it is necessary to decide whether or not an act or omission occurred in the performance of official duties, a

agency of the Forces. Upon request of the court or the German authorities in a particular case, the agency of the Forces will review the certificate. Any certificate given shall be conclusive on the question involved.

ARTICLE 9

1. Each Power concerned, for its part, and the Federal Republic, for its part, waives all claims against the other for loss of, or damage to, any property in the Federal territory owned by it caused after the entry into force of the present Convention by activities, acts or omissions of agencies or persons, for whose acts or omissions the other is legally responsible, in the performance of their official duties. This waiver shall not apply to loss of, or damage to, property of the German Federal Railways or Federal Post, or to loss or damage for which those organizations are responsible.

2. In application of the principle expressed in paragraph 1 of this Article, claims for loss of, or damage to, property used by the Forces free of charge pursuant to items (i) and (ii) of sub-paragraph (g) of paragraph 1 of Article 7 of the present Convention, and claims arising from increases in the value of such property, shall be deemed to cancel each other out.

3. The Federal Republic undertakes to ensure that each Power concerned is relieved of liability for claims of any Land of the Federal Republic arising from acts or omissions of the Forces as defined in paragraph 2 of Article 8 of the present Convention. Each Power concerned undertakes to renounce in favour of the Federal Republic all corresponding claims which it may have against any Land of the Federal Republic. Each Power concerned further undertakes to renounce in favour of the Federal Republic claims in respect of improvements leading to an increase in value of the property referred to in paragraph 2 of Article 7 of the present Convention.

ARTICLE 10

1. Payments by the Federal Republic in satisfaction of any claims referred to in Article 3 of Chapter Nine of the Convention on the Settlement of Matters Arising out of the War and the Occupation [1] may be charged to the funds for the support of the Forces only to the extent agreed between the Federal Republic and the Powers concerned.

2. Any claims referred to in paragraph 1 of this Article which the agencies of the Power concerned have not determined before the entry into force of the present Convention shall be submitted to the appropriate agencies of the Federal Republic.

ARTICLE 11

1. Receipts arising from the following sources shall accrue to the Federal Republic and shall be duly accounted for:

(a) the disposal of any movable property which so far as can be occupation costs or mandatory expenditure funds;

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[1] *Infra*, p. 587

(b) payments by third parties of amounts in consideration o improvements which lead to an increase in value of their propert as a result of expenditure from Reichsmark or Deutsche Mar occupation costs or mandatory expenditure funds;

(c) repayment claims against third parties arising out of overpayments from Reichsmark or Deutsche Mark occupation cost or mandatory expenditure funds.

2. The Deutsche Mark value of receipts arising from the followin ources shall accrue to the Power concerned and shall be used i ccordance with the provisions of Articles 5 and 6 of the presen onvention on the basis of supplementary Deutsche Mark budge stimates to be agreed between the Power concerned and the Federa epublic:

(a) the disposal of any movable property purchased by expenditure from funds for the support of the Forces. Any amount accruing pursuant to this subparagraph shall be the sale price o the property concerned if it is sold, less the costs of disposal, o if the property is not sold, a value to be fixed by impartial valuation in accordance with conditions to be agreed between th Federal Republic and the Power concerned;

(b) any receipts in Deutsche Mark or in kind arising out of th use by the Forces of accommodation, goods, materials and service provided under the present Convention or the Forces Convention provided that any Deutsche Mark amounts received from person or agencies not members of the Forces, as compensation for th use of accommodation in connection with services performed fo the Forces and their members, shall accrue to the Federa Republic;

(c) payments by third parties of amounts in consideration o improvements which lead to an increase in value of their propert as a result of expenditure from funds for the support of th Forces. However, such payments by Länder of the Federa Republic shall accrue to the Federal Republic;

(d) repayment claims against third parties arising out of overpayments from funds for the support of the Forces.

3. The Federal Republic shall with due diligence assert an rosecute such claims as fall [fail] to be made under sub-paragraphs (c nd (d) of paragraph 2 of this Article. The authorities of the Powe oncerned may require that they be consulted in due time before th ssertion of any claim under sub-paragraph (c) of paragraph 1 o ub-paragraph (d) of paragraph 2.

ARTICLE 12

1. Payments for accommodation, goods, materials or service rovided for the Forces and their members shall be subject to th rovisions of this Article.

2. Subject to the effect of the tax and customs exemptions provide n the Forces Convention or any other applicable agreement, th

in principle to price and wage levels prevailing from time to time in the Federal territory but the authorities of the Power concerned shall receive terms and conditions not less favourable than those afforded to comparable purchasers. When the requirements of the Forces are satisfied through procurement by the German authorities, or other expenditures chargeable to funds for the support of the Forces are made by the German authorities, the amount to be paid shall be determined in agreement with the authorities of the Power concerned. Except in the case of goods procured for consumption by persons normally resident in the Federal territory, the Power concerned shall not benefit from any subsidies granted by the Federal Republic to lessen the price of goods in the interest of the individual German consumer. The procedures for implementation of the preceding sentence shall be established by the subsidiary agreements provided for in Article 17 of the present Convention.

3. Compensation for accommodation, goods, materials or services obtained for the Forces by requisition under the Federal legislation referred to in paragraph 3 of Article 37 of the Forces Convention shall be determined by the appropriate German authorities, in consultation with the authorities of the Power concerned, in accordance with the provisions of that legislation and the principles expressed in the first sentence of paragraph 2 of this Article. Until the entry into force of such Federal legislation, the existing basis for assessment of compensation for accommodation, goods, materials and services requisitioned for the Forces shall remain in force.

4. The wage and salary rates for civilian personnel referred to in Article 44 of the Forces Convention shall be determined in accordance with paragraph 5 of that Article. The amounts chargeable to the funds for the support of the Forces shall include the employer's contribution to social insurance funds and the premiums for statutory accident insurance payable under German law.

5. The transport facilities and services afforded to the Forces and their members under the agreements mentioned in paragraph 3 of Article 41 of the Forces Convention shall be paid for at the rates established in those agreements. Before the expiry of the said agreements, other tariff agreements consistent with the principles of paragraph 2 of this Article and Article 41 of the Forces Convention shall be concluded as provided in the latter Article.

6. The facilities and services of the German public posts and telecommunications agencies afforded to the Forces and their members under Article 42 of the Forces Convention, and any facilities made available by the Forces to the German authorities under paragraph 5 of that Article, shall be paid for at rates established in accordance with paragraph 1 of that Article.

ARTICLE 13

1. Except in special cases which may be the subject of agreement between the Powers concerned and the Federal Republic the expendi-

with the provisions of this Article.

2. Prior to the end of the period covered by paragraph 2 of Article 4 of the present Convention, the following costs for construction of accommodation shall be chargeable to the funds for the support of the Forces:

(a) all material, labour and other costs of construction, including the cost of preparation of the site;

(b) the cost of constructing transport, communications and public utility facilities and installations on, or leading to, the site, provided that such facilities are furnished exclusively to serve the accommodation concerned;

(c) the cost of replacing or re-routing to a standard not higher than that previously existing, transport, communications or public utility facilities and installations no longer available for public use by reason of the construction of the accommodation concerned.

In the case of costs referred to in subparagraphs (b) and (c) of this paragraph which are incurred by the German authorities on behalf of the Forces, the amount of expenditures to be charged to the funds for the support of the Forces shall be determined in agreement with the authorities of the Forces. Where the facilities and installations referred to in sub-paragraphs (b) and (c) of this paragraph are revenue roducing, or may constitute or form part of improvements included n a German development plan, the costs thereof shall be chargeable to the funds for the support of the Forces in the proportion agreed etween the Powers concerned and the Federal Republic.

3. During the period covered by paragraph 1 of Article 4 of the present Convention, the costs of the installations and works referred to in Article 20 of the Forces Convention shall be chargeable to the funds for the support of the Forces. During the period covered by paragraph 2 of Article 4 of the present Convention, the costs of the above mentioned installations and works shall be chargeable to the funds for the support of the Forces to the extent that provision is made therefor in the budgets of the Powers concerned. If installations and works should be carried out for which no provision has been made in such budgets, their financing shall be determined by prior agreement between the Federal Republic and the Powers concerned.

4. Any expenditures, other than those provided for in paragraph 2 of this Article, made prior to the end of the period covered by paragraph 2 of Article 4 of the present Convention and related to the acquisition and evacuation of accommodation for the Forces shall not be charged to the funds for the support of the Forces or to the Powers concerned.

ARTICLE 14

A permanent Co-ordinating Committee composed of representatives of the Three Powers and of the Federal Republic shall be established to carry out the tasks assigned to it under the present Convention, to co-ordinate the implementation of the present Convention, and to consider and make recommendations to the Signatory States concerning the removal of any doubts or difficulties arising in connection therewith which cannot be resolved directly by consultation between the competent authorities and services concerned.

ARTICLE 15

The Powers concerned may expend also in Berlin any funds made available to them under the present Convention for the purposes mentioned in paragraph 1 of Article 5.

ARTICLE 16

At the request of any of the Signatory States discussions may be opened to amend or abrogate any of the Articles of the present Convention.

ARTICLE 17

1. The Three Powers, or any Power concerned, and the Federal Republic will conclude, where necessary or desirable, subsidiary agreements regarding the implementation of the present Convention, particularly the provisions of Article 6.

2. The negotiation and implementation of these subsidiary agreements shall be co-ordinated through the Co-ordinating Committee established pursuant to Article 14 of the present Convention.

ARTICLE 18

1. [Deleted.]

2. The provisions of the present Convention shall apply to the Forces of other Sending States and to the members of such Forces, except where excluded or modified by any agreement which may be made between any of such other Sending States and the Federal Republic.

ARTICLE 19

The Arbitration Tribunal established by the Convention on the Relations between the Three Powers and the Federal Republic of Germany [1] shall not have jurisdiction

(a) in matters which under paragraphs 1 to 4 of Article 4 of the present Convention are to be settled by negotiation;

(b) to determine questions as to the extent of the competence or to review the decisions of the German agencies and agencies of the Forces referred to in Article 8 or of the Co-ordinating Committee to be established under Article 14 of the present Convention.

IN FAITH WHEREOF the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

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[1] Supra, pp. 491–498.

in the English, French and German languages, all being equally authentic.

. . . .

ANNEX A

In the case of the Forces of the United Kingdom of Great Britain and Northern Ireland and of the Forces of Belgium, Denmark and Norway the provisions of Article 8 of the Finance Convention shall be implemented in accordance with the following provisions:

Section 1

The functions of the appropriate agency of the Forces set out in paragraph 9 of Article 8 of the Finance Convention shall in respect of these Forces be delegated to the Federal Republic.

Section 2

1. The appropriate German agency shall inform the appropriate agency of the Forces of any claim lodged with it and shall append such particulars as the latter agency may require.

2. After receipt of these particulars, the appropriate agency of the Forces will forward as soon as possible to the appropriate German agency such information and evidence in its possession as is necessary for dealing with the claim insofar as the making available of such information and evidence is permissible under the regulations of the Power concerned.

3. In the case of claims to which sub-paragraphs (c) and (d) of paragraph 2 of Article 8 of the Finance Convention apply, the agency of the Forces shall in particular make available within twenty-one days of receipt of notification under paragraph 1 of this Section any information or evidence in its possession which would support the rejection of the claim in whole or in part. In such case the German agency shall assess and pay compensation only in the full light of such information and evidence and in any case of doubt shall refer to the agency of the Forces before making any payment.

Section 3

1. Where a claim to compensation is based on an allegation of loss or damage caused by an act or omission in the performance of his official duties of a member or employee of the Forces or of a person working for the Forces pursuant to Article 44 or 45 of the Forces Convention or is alleged to arise from an activity of the Forces, the appropriate agency of the Forces will certify whether or not such act or omission occurred in the performance of the official duties of the person concerned or an activity of the Forces was involved as the case may be.

2. The German agency shall not assess or pay any compensation unless the appropriate agency of the Forces has issued a certificate

that the act or omission causing the loss or damage occurred in the performance of official duties or that the loss or damage was caused by an activity of the Forces.

3. If during investigations of a claim circumstances appear which would lead to an inference different from that contained in the certificate on the question whether an act or omission occurred in the performance of official duties or an activity of the Forces is concerned, the appropriate agency of the Forces will on the request of the appropriate German agency review its certificate taking into account the representations made by the German agency.

Section 4

If a claimant brings an action in the ordinary German court against the Federal Republic pursuant to paragraph 10 of Article 8 of the Finance Convention, the German agency will forward to the appropriate agency of the Forces a copy of the plaint. Should the German agency deem it necessary in the light of the plaint to obtain from the agency of the Forces supplementary documents or evidence to be used in the defence of the action, it will so inform the agency of the Forces as early as possible.

Section 5

Should the legally enforceable judgment of a Court in an action brought under paragraph 10 of Article 8 of the Finance Convention differ from the decision of the German agency taken under Section 1 of this Annex, the decision shall be modified so as to make it accord with the judgment; this shall apply whether or not the authorities of the Forces exercised their right to participate in the action against the Federal Republic under paragraph 12 of Article 8 of the Finance Convention.

Section 6

To enable that part of the compensation awarded by the German agencies or Courts which under Section 7 of this Annex is to be charged to the funds for the support of the Forces of the Power concerned to be so charged, the German agency shall by the fifteenth day of each month furnish to the appropriate agency of the Forces a list showing the amounts of compensation paid during the previous month.

Section 7

It is agreed, as provided for in paragraph 14 of Article 8 of the Finance Convention, that 75 per cent. of the compensation awarded by the appropriate German agencies or by the ordinary German courts shall be charged to the funds for the support of the Forces made available under the Finance Convention. The remaining 25 per cent. of the compensation shall be borne by the Federal Republic.

Section 8

The provisions of this Annex shall not affect the provisions o paragraph 16 of Article 8 of the Finance Convention.

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ANNEX B[1]

In the case of the Forces of the United States of America, the provisions of Article 8 of the Finance Convention shall be implemented in accordance with the following provisions:

Section 1

The functions of the appropriate agency of the Forces set out in paragraph 9 of Article 8 of the Finance Convention shall in respect o these Forces be delegated to the Federal Republic.

Section 2

1. The appropriate German agency shall promptly inform the appropriate agency of the Forces of any claim lodged with it and shall ppend such particulars as the latter agency may require.

2. After receipt of these particulars, the appropriate agency of the Forces shall forward as soon as possible to the appropriate German agency such relevant information and evidence obtainable from its own sources as is necessary for dealing with the claim insofar as the making available of such evidence is permissible under the regulations of the United States. The German agency shall assess and pay any compensation upon the claim only in the full light of this evidence.

Section 3

1. The appropriate agency of the Forces shall include in the information and evidence forwarded to the appropriate German agency under paragraph 2 of Section 2 of this Annex a statement as to whether or ot acts or omissions of the Forces as defined in paragraph 2 of Article 8 of the Finance Convention are involved.

2. The German agency shall not assess or pay any compensation unless the appropriate agency of the Forces has issued a statement that acts or omissions of the Forces as defined in paragraph 2 of Article 8 of the Finance Convention are involved.

3. If during investigations of a claim circumstances appear which would lead to an inference different from that contained in the statement, the appropriate agency of the Forces shall, on the request of the appropriate German agency, review its statement taking into account the representations made by the German agency.

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[1] Added by Schedule III.

Section 4

If a claimant brings an action in the ordinary German court against the Federal Republic pursuant to paragraph 10 of Article 8 of the Finance Convention, the German agency shall forward to the appropriate agency of the Forces a copy of the complaint. Should the German agency deem it necessary in the light of the complaint to obtain from the agency of the Forces supplementary documents or evidence from its own sources for use in connection with the defense of the action, the German agency shall so inform the agency of the Forces as soon as possible.

Section 5

Should the legally enforceable judgment of a Court in an action brought under paragraph 10 of Article 8 of the Finance Convention differ from the decision of the German agency taken under Section 1 of this Annex, the decision shall be modified so as to make it accord with the judgment; this shall apply whether or not the authorities of the Forces exercised their right to participate in the action against the Federal Republic under paragraph 12 of Article 8 of the Finance Convention.

Section 6

To enable that part of the compensation awarded by the German agencies or Courts which under Section 7 of this Annex is to be charged to the funds for the support of the Forces of the United States to be so charged, the German agency shall by the fifteenth day of each month furnish to the appropriate agency of the Forces a list showing the amounts of compensation paid during the previous month.

Section 7

It is agreed, as provided for in paragraph 14 of Article 8 of the Finance Convention, that 75 percent of the compensation awarded by the appropriate German agencies or by the ordinary German courts shall be charged to the funds for the support of the Forces made available under the Finance Convention. The remaining 25 per cent. of the compensation shall be borne by the Federal Republic.

Section 8

The provisions of this Annex shall not affect the provisions of paragraph 16 of Article 8 of the Finance Convention.

17. CONVENTION ON THE SETTLEMENT OF MATTER ARISING OUT OF THE WAR AND THE OCCUPATION MAY 26, 1952, AS AMENDED BY SCHEDULE IV TO TH PROTOCOL ON THE TERMINATION OF THE OCCUPATIO REGIME IN THE FEDERAL REPUBLIC OF GERMANY OCTOBER 23, 1954[1]

The United States of America,
The United Kingdom of Great Britain and Northern Ire land,
The French Republic
and
The Federal Republic of Germany,

Agree as follows:

Chapter One—General Provisions

ARTICLE 1

1. The Federal and Land authorities shall have the power, in ac cordance with their respective competences under the Basic Law o the Federal Republic,[2] to repeal or amend legislation enacted by th Occupation Authorities, except as otherwise provided in the Convention on Relations between the Three Powers and the Federal Republi of Germany or any of the related Conventions listed in Article thereof.[3] Until such repeal or amendment, legislation enacted by th Occupation Authorities shall remain in force. Legislation enacted b the Control Council shall not be subject to repeal or amendment Legislation by which the provisional boundaries of the Federal Repub lic have been established, or which is required to be maintained i force by other provisions of the Convention on Relations between th Three Powers and the Federal Republic of Germany or any of th related Conventions, may only be amended or repealed with th consent of the Three Powers.

2. The Three Powers hereby delegate to the Federal Republic th right to deprive of effect within its territory, after consultation i each case with the Three Powers, all such legislation of the Contro Council as is not required to be maintained in force by other provision f the Convention on Relations between the Three Powers and th Federal Republic of Germany or any of the related Conventions o as shall not have been required to be maintained in force by the Thre Powers in the exercise of their rights relating to Berlin and to German s a whole, including unification of Germany and a peace settlement eferred to in the Convention on Relations between the Three Power

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[1] *The Bonn Agreements of 1952 as Amended by the Paris Protocol of 1954* (S. Doc No. 11, 84th Cong., 1st sess.), pp. 77–123. For the 1952 text of this convention see S. Execs. Q and R, 82d Cong., 2d sess., pp. 25–88.

[2] *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), pp. 283–305.

[3] *Supra*, p. 489.

on behalf of the Governments of the Three Powers to the Federal Chancellor bearing the date of the signature of the present Convention.[1]

3. The term "legislation" as used in the present Convention includes proclamations, laws, ordinances, decisions (other than Court decisions), directives, regulations, orders, licenses or any other similar enactments which have been officially published. Reference to any specific legislation shall include each and every part thereof, including the preamble, unless otherwise expressly provided.

4. The official text or texts of legislation referred to in this Article shall be the text or texts which was or were official at the time of enactment.

5. The term "Occupation Authorities" as used in this Chapter means the Control Council, the Allied High Commission, the High Commissioners of the Three Powers, the Military Governors of the Three Powers, the Armed Forces of the Three Powers in Germany, and organizations and persons exercising power on their behalf or, in the case of international organizations and organizations representing other Powers (and the members of such organizations), acting with their authorization, and auxiliary contingents of other Powers serving with the Armed Forces of the Three Powers.

ARTICLE 2

1. All rights and obligations created or established by or under legislative, administrative or judicial action of the Occupation Authorities are and shall remain valid for all purposes under German law whether or not their creation or establishment was in conformity with other legislation. Such rights and obligations shall be subject without discrimination to the same future legislative, judicial and administrative measures as similar rights and obligations created or established by or under German municipal law.

2. All rights and obligations arising under the treaties and the international agreements listed in the enclosure with the communication of the Allied High Commissioners[2] on behalf of the Governments of the Three Powers to the Federal Chancellor bearing the date of the signature of the present Convention and concluded on behalf of one or more of the three Western Zones of Occupation by the Occupation Authorities or by any one or more of the Governments of the Three Powers before the entry into force of the present Convention are and shall remain valid as though they had arisen under effective treaties and international agreements concluded by the Federal Republic.

ARTICLE 3

1. No person shall be prosecuted or prejudiced in his civil rights or economic position by the action of German courts or authorities solely on the ground that he has, prior to the entry into force of the present Convention, sympathized with or aided the cause of the

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[1] Text in S. Execs. Q and R, 82d Cong., 2d sess., p. 151.

[2] Text in S. Execs. L and M, 83d Cong., 2d sess., pp. 121–158.

or services to the forces, authorities, or agencies of any one or more of the Three Powers, or to any person acting under the authority of any of them. The same shall apply in favour of persons who, prior to the entry into force of the present Convention, have shown sympathy to, or aided or furnished with information or services, the Allies of the Three Powers in their common cause. The German authorities shall apply all means at their disposal to ensure that the objectives of this paragraph are attained.

2. Except as provided in paragraph 3 of this Article, or by special agreement between the Governments of the Three Powers or the Power concerned and the Federal Government, German courts and authorities shall have no jurisdiction in any criminal or non-criminal proceedings relating to an act or omission which occurred before the date of entry into force of the present Convention, if immediately prior to such date German courts and authorities were without jurisdiction with respect to such act or omission whether *ratione materiae* or *ratione personae.*

3. Subject to the provisions of paragraph 1 of this Article and to any other relevant provision of the Convention on Relations between the Three Powers and the Federal Republic of Germany, or of the related Conventions, German courts may exercise such jurisdiction as they have under German law in respect of:

(a) non-criminal proceedings based on private law:

(i) against juristic persons, if the jurisdiction of German courts was previously excluded solely on the ground that such juristic persons were subject to the control of the Occupation Authorities under SHAEF [1] and Military Government Laws No. 52 on Blocking and Control of Property, Control Council Law No. 9 Providing for the Seizure of Property Owned by I. G. Farbenindustrie and the Control Thereof,[3] or Allied High Commission Law No. 35 on Dispersion of Assets of I. G. Farbenindustrie A. G;[4].

(ii) against natural persons, unless such proceedings arise out of, or concern acts or omissions in the course of the performance of, duties or services for the Occupation Authorities, or unless they arise from claims referred to in Article 3 of Chapter Nine of the present Convention. Maintenance cases shall become subject to the jurisdiction of German courts, however, only to the extent to which maintenance is claimed in respect of a period commencing after the entry into force of the present Convention;

(b) criminal proceedings against natural persons, unless investigation of the alleged offence was finally completed by the prosecuting authorities of the Power or Powers concerned, or unless such offence has been committed in the performance of duties or services for the Occupation Authorities.

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[1] Supreme Headquarters, Allied Expeditionary Force.

[2] *Military Government Gazette*, issue A, p. 24.

[3] *Official Gazette for the Control Council for Germany*, p. 34.

this paragraph a question arises whether or not a person has acted in the performance of duties or services for the Occupation Authorities, or whether or not the prosecuting authorities of the Power or Powers concerned have finally completed the investigation of an alleged offence, the German court shall accept a certificate of the Ambassador, or in his absence the Chargé d'affaires, of the Power concerned as conclusive proof of such question, to the extent covered by such certificate.

ARTICLE 4

1. No tribunals shall be maintained by the Three Powers in the Federal territory except as specifically provided in the present Convention or except tribunals exercising jurisdiction as contemplated in the Convention on Relations between the Three Powers and the Federal Republic of Germany or any of the related Conventions.

2. For the transitional period referred to in paragraph 3 of this Article, the United States Court and Court of Appeals of the Allied High Commission for Germany, established by Law No. 20 of the United States High Commissioner,[1] the Courts of the Allied High Commission for Germany, British Zone, established by Military Government Ordinance No. 68 (amended 2) and Ordinances No. 222 and 244 of the United Kingdom High Commissioner, and the French Tribunals of the Allied High Commission for Germany, regulated by Ordinance No. 242 of the French High Commissioner, may continue to exercise jurisdiction under legislation of the Allied High Commission and of the High Commissioners to the extent necessary:

(a) to conclude any business before them on the entry into force of the present Convention;

(b) to make a decision in any criminal or noncriminal proceedings, other than criminal proceedings against a German national (within the meaning of German law), based on an act or omission which occurred before the date of entry into force of the present Convention and which was not immediately prior to that date subject to the jurisdiction of the German courts, if such proceedings are instituted within ninety days after the entry into force of the present Convention;

and shall continue to apply the applicable law in force immediately prior to the entry into force of the present Convention. The Federal Republic undertakes that at the request of any one of the Three Powers investigations will be made by the appropriate German authorities regarding alleged violations by German nationals (within the meaning of German law) of legislation of the Occupation Authorities, and that criminal proceedings will be instituted where the investigations show such proceedings to be warranted.

3. The jurisdiction referred to in paragraph 2 of this Article shall, however, terminate ten months after the date of entry into force of the present Convention in the case of appellate tribunals, and six months after that date in the case of other tribunals, except that such

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[1] *Official Gazette of the Allied High Commission for Germany*, p. 919

where this appears advisable in view of the status of the proceeding and of the interests of the persons concerned. With a view to completing all matters falling within their jurisdiction, insofar as possible within the prescribed periods, the courts referred to in paragraph f this Article may transfer any proceedings pending before them t competent German courts whenever the status of the proceedings an the interests of the persons concerned shall permit. In particular, th tribunals shall consider the possibility of such transfer in all crimina proceedings pending on the entry into force of the present Conventio in which a German national (within the meaning of German law) is defendant. The German court to which such transfer is made shal pply the applicable substantive law referred to in paragraph 2 of thi Article.

4. The legislation referred to in paragraph 2 of this Article shall b maintained in force for such period as is necessary to effect the purpose of that paragraph.

ARTICLE 5

1. All judgments and decisions in non-criminal matters heretofor or hereafter rendered in Germany by any tribunal or judicial authorit of the Three Powers or any of them shall remain final and valid for al purposes under German law, shall be treated as such by German court and authorities and shall, on the application of a party, be enforced b them in the same manner as judgments and decisions of Germa courts and authorities.

2. Finality (Rechtskraft) shall, if it does not appear from a certifie copy of the judgment, be conclusively proved by a certificate of th appropriate authorities of the Power concerned.

3. In connection with the enforcement of judgments objection affecting a claim reduced to judgment may be asserted by proceeding before the competent German court under Section 767 of the Germa Code of Civil Procedure.

ARTICLE 6

1. There is hereby established a Mixed Board (referred to in thi Article as "the Board"). The task of the Board will be, without calling in question the validity of the convictions, to make recommendation for the termination or reduction of sentences, or for parole, in respec of persons convicted by a tribunal of an Allied Power of crimes agains humanity or against the laws and usages of war or of crimes committe during the war, commonly referred to as "war crimes" and confine by the Three Powers in prisons in the Federal Republic on the entr into force of the present Convention.

2. The Board shall consist of six members, of whom one shall b appointed by the Government of each of the Three Powers and thre by the Federal Government. The members of the Board shall b independent persons not exercising other official functions except as judge or university teacher and not subject to instructions of th appointing Governments in formulating their recommendations. N

war crimes trial.

3. (a) The right to terminate or reduce sentences and to grant parole in respect of persons referred to in paragraph 1 of this Article shall be exercisable by the Power which imposed the sentence.

(b) The right shall not be exercised unless the Board has previously made a recommendation. A unanimous recommendation of the Board shall be binding upon the Power which imposed the sentence.

(c) Save on matters dealt with in paragraphs 5 and 8 of this Article, the Board shall act only at the request of one of the Four Governments relating to a particular case or on the receipt of a petition by or on behalf of a person referred to in paragraph 1.

4. The Three Powers retain the rights heretofore held and exercised by them relating to the custody and carrying out of sentences of the persons referred to in paragraph 1 of this Article and will continue to exercise such rights until the Federal Republic is in a position to accept the custody of such persons.

5. The Federal Republic undertakes that at the time when the Three Powers transfer custody of the persons referred to in paragraph 1 of this Article to it, it will continue to confine such persons for the remainder of their sentences, as then in effect or as thereafter modified by the procedure provided in this Article, under the same conditions that govern their detention on the date of such transfer of custody. Changes in those conditions after such date shall be made only in accordance with decisions of the Board. In these matters the Board's decisions shall be final.

6. After the Board has been constituted, its members shall have free access to the institutions in which the persons referred to in paragraph 1 of this Article are confined and to such persons themselves.

7. The Board shall act by the vote of a majority of its six members.

8. The Board shall have exclusive power to decide, without reference to Governments, questions of interruption of sentences on compassionate or other grounds in accordance with principles and rules of procedure adopted by it. Pending the adoption of such principles and rules, the Board shall continue to apply the existing practices of each of the Three Powers in this field to the persons in the custody of such Power.

9. Notwithstanding the provisions of paragraphs 3 and 8 of this Article, and until the Board shall have commenced to function, each of the Three Powers may continue existing procedures with respect to reduction of sentences, release and interruption of sentences on compassionate or other grounds, without receiving any recommendation from the Board.

10. The rights of the Three Powers referred to in sub-paragraph (a) of paragraph 3 and in paragraph 4 of this Article and, without prejudice to the provisions of sub-paragraph (b) of paragraph 3 and of

the jurisdiction of the Arbitration Tribunal or of any other tribunal or court.

11. The provisions of Article 7 of this Chapter shall not apply to the matters dealt with in this Article.

ARTICLE 7

1. All judgments and decisions in criminal matters heretofore or hereafter rendered in Germany by any tribunal or judicial authority of the Three Powers or any of them shall remain final and valid for all purposes under German law and shall be treated as such by German courts and authorities.

2. The German authorities will confine in German institutions until the termination of their sentences persons, other than members of the Forces (as defined in the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany),[1] who have been or shall be sentenced by, or who are held for trial before, any tribunal referred to in paragraph 1 of this Article.

3. The German authorities shall treat persons confined in German institutions pursuant to paragraph 2 of this Article in accordance with humane penological principles and in the same manner as is prescribed for persons sentenced by, or held for trial before, German courts. The authorities of the Three Powers shall have access to German institutions in which such persons are confined and to such persons themselves.

4. The costs of confinement in German institutions pursuant to this Article shall be borne by the German authorities.

5. There shall be established within thirty days after the entry into force of the present Convention a Mixed Clemency Advisory Board consisting, on a basis of parity, of not less than one member appointed by the Government of each of the Three Powers and not less than three members appointed by the Federal Government. The Board shall sit in panels consisting of one member appointed by the Government of the Power concerned and one of the members appointed by the Federal Government, for the purpose of making recommendations to the Power concerned or the Federal Republic, as required in paragraphs 6 and 7 of this Article, in matters of termination or reduction of sentence, parole, pardon and other acts of clemency regarding persons confined in German institutions pursuant to the provisions of paragraph 2 of this Article.

6. The Federal Republic shall have the exclusive right to make final decisions in all matters of termination or reduction of sentences, parole, pardon and other acts of clemency regarding German nationals (within the meaning of German law) confined, pursuant to paragraph 2 of this Article, in German institutions under German control. The recommendation of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of this Article shall be obtained prior to any such decision. In cases of persons sentenced for offences against Allied personnel or property or against the Allied adminis-

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[1] [illegible]

of the appropriate panel of the Board.

7. Each of the Three Powers shall have the exclusive right to make final decisions in all matters of termination or reduction of sentences, parole, pardon and other acts of clemency regarding all persons, other than those referred to in paragraph 6 of this Article, sentenced by its courts and confined, pursuant to paragraph 2 of this Article, in German institutions under German control. The recommendation of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of this Article shall be obtained prior to any such decision.

ARTICLE 8

The following persons shall enjoy immunity from suit within the Federal territory during their terms of office and, after the expiry of their terms of office, shall continue to enjoy such immunity in respect of acts performed in the exercise of their official duties:

(a) members of the tribunals referred to in paragraph 2 of Article 4 of this Chapter;

(b) members of the tribunals, referred to in paragraph 1 of Article 6 of Chapter Three of the present Convention, to which the Supreme Restitution Court succeeds;

(c) members, appointed by any of the Three Powers, of the Mixed Board established by paragraph 1 of Article 6 of this Chapter or of the Mixed Clemency Advisory Board established pursuant to paragraph 5 of Article 7 of this Chapter;

(d) members, appointed by any of the Three Powers, of the Board of Review referred to in paragraph 1 of Article 12 of this Chapter.

During their terms of office they shall also enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions.

ARTICLE 9

1. The Allied High Commission legislation concerning the reorganization of the German coal mining and iron and steel industries, to the extent that such legislation is in force on the date of the entry into force of the present Convention, shall be maintained in force in so far and so long as deconcentration measures ordered before that date are still to be carried out or claimants are still to be protected.

2. The Federal Government shall ensure that the measures decreed under the legislation referred to in paragraph 1 of this Article by regulations or orders of the Allied High Commission or of its subordinate bodies as well as the measures required to be taken in implementation of the plans approved by such orders shall be carried through to completion.

3. The provisions of this Article shall be without prejudice to such expansion or affiliation of enterprises of the German coal mining and iron and steel industries as shall be permitted under the Treaty on the Establishment of the European Community for Coal and Steel.[1]

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[1] Treaty of Apr. 18, 1951; *infra*, pp. 1039–1078.

ARTICLE 10

1. A mixed committee of experts composed of seven members shal be established according to the following procedure. Three of it members shall be appointed by the Federal Republic and one by eacl of the Three Powers immediately after the Federal Government ha received the first application under paragraph 3 of this Article anc has notified the Three Powers of that fact. The members so appointec shall elect a seventh member by majority vote within six months afte this notification. If within that time the seventh member shall no have been elected or shall not have accepted election, the Board o Directors of the Bank for International Settlements shall be requestec to appoint as a seventh member an expert who shall not be a nationa of any of the Signatory States.

2. The function of the Mixed Committee shall be to conside applications for extensions of the final time for the disposition o securities required by regulations or orders of the Allied High Commission or its subordinate bodies or by reason of the terms of a plar approved by any such order.

3. Applications must be filed with the Federal Government no ater than one year before the expiration of the time fixed for the disposition of the securities. The applicant shall, until the decisior of the Mixed Committee is rendered, be entitled to file any additiona supporting papers.

4. The Mixed Committee shall extend the time fixed for the disposition of the securities, provided that the applicant establishe that all of such securities could not, with the exercise of reasonabl efforts, be disposed of on reasonable terms and on a basis which i compatible with the German public interest and that such dispositior will not be possible within the remaining time without a disruptiv effect on the German capital market.

5. Any extension under paragraph 4 of this Article shall be grantec for not more than one year but shall be subject to renewal upon further application on the basis of the standards set forth in tha paragraph. The Mixed Committee may attach appropriate condi ions to any such extension or renewal.

6. The decision of a majority of the members shall constitute th decision of the Mixed Committee. The Committee shall render it decision before the expiration of the time fixed for the disposition o the securities.

7. The emoluments of the members of the Mixed Committee shal be paid by each of the Signatory States in respect of the member o members appointed by it. One-half of the emoluments of the sevent member shall be paid by the Federal Republic, and one-sixth by eacl of the Three Powers. The Mixed Committee may charge the remain ng costs, in whole or in part, to the applicants.

8. The Mixed Committee shall adopt its own rules for the conduc of its business.

1. The Allied High Commission legislation concerning the termination of the deconcentration and liquidation of I. G. Farbenindustrie A. G. i. L. to the extent that such legislation is in force on the entry into force of the present Convention shall be maintained in force until the liquidation of the I. G. Farbenindustrie A. G. i. L. in accordance with such legislation has been completely carried out. Those provisions of the legislation referred to in the first sentence of this paragraph which concern rights or obligations (Rechtsverhältnisse) continuing to exist after the completion of the liquidation of I. G. Farbenindustrie A. G. i. L. shall be maintained in force until such rights and obligations have been completely settled.

2. The Federal Government shall ensure that the measures decreed under the legislation referred to in paragraph 1 of this Article by regulations or orders of the Allied High Commission or of its subordinate bodies shall be carried through to completion.

ARTICLE 12

1. After the entry into force of the present Convention the Board of Review provided for under Article 13 (as amended) of Allied High Commission Law No. 27[1] shall consist of one member appointed by each of the Three Powers and three members appointed by the Federal Republic. As so constituted this Board of Review shall continue to be the sole appropriate body to review, on the petition of interested persons, any orders issued under sub-paragraph (c) of Article 5 of Law No. 27, or under paragraph 1 of Article 5 of Allied High Commission Law No. 35.[2] The independence of the members of the Board of Review and their freedom of decision shall not be impaired by instructions or other actions of their Governments. Before rendering a decision the Board of Review shall grant the claimant a hearing.

2. The emoluments of the members of the Board of Review shall be paid by each of the Signatory States in respect of the member or members appointed by it. One-half of the remaining expenses of the Board of Review shall be borne by the Federal Republic, and one-sixth by each of the Three Powers.

ARTICLE 13

In order to facilitate the smooth transition from the Occupation regime to normal diplomatic relationships, and to provide for the accommodation of the Embassies and Consulates of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic, the Governments of the United States, the United Kingdom and the French Republic are hereby granted the right, subject to the payment of compensation in appropriate cases, to the continued use for a transitional period of the property vided such property is required for use by the Embassies and Consulates to be set up by them.

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[1] *Official Gazette of the Allied High Commission for Germany*, p. 299.
[2] *Ibid.*, p. 584.

CHAPTER TWO—DECARTELIZATION AND DECONCENTRATION

[Deleted.]

CHAPTER THREE—INTERNAL RESTITUTION

ARTICLE 1

This Chapter relates to:

(a) the restitution of identifiable property to victims of Nazi oppression pursuant to the following legislation:

(i) for the British Zone of Occupation
Military Government Law No. 59,[1] as amended or supplemented by Ordinances Nos. 205, 212, 225, 232, 233, 237, 240, 243, 252 and 255 of the United Kingdom High Commissioner, by Notice No. 1 under Ordinance No. 233 and by Regulations Nos. 1 to 13 inclusive in their last amended versions;

(ii) for the United States Zone of Occupation
Military Government Law No. 59, as amended or supplemented by Amendments Nos. 1 and 2, by Laws Nos. 3, 4, 5, 12, 13, 14, 21 (as amended), 30 and 42 of the United States High Commissioner and by the regulations issued pursuant thereto;[2]

(iii) for the French Zone of Occupation
Ordinance No. 120 of the French Commander-in-Chief, as amended or supplemented by Ordinances Nos. 156, 186, and 213 of the French Commander-in-Chief and by Ordinances Nos. 268 and 274 of the French High Commissioner, Order No. 177 under Ordinance No. 120 (as amended) and Ordinance No. 252 of the French High Commissioner, as amended by Ordinance No. 255;

(b) the restitution or reallocation of property seized under the National Socialist regime from co-operative societies, trade unions, charitable organizations and other democratic organizations, pursuant to Control Council Directive No. 50[3] and to the following legislation:

(i) for the British Zone
Military Government Ordinances Nos. 150 and 159, as amended by Ordinances Nos. 208 and 227 of the United Kingdom High Commissioner, paragraph 3 of Article 4 of Military Government Ordinance No. 202 and Ordi-

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[1] *Military Government Gazette*, issue G, p. 1.

[2] *Ibid.*, issue G, p. 1; issue J, p. 2; issue M, p. 22; *Official Gazette of the Allied High Commission for Germany*, pp. 107, 147, 467, 671, 681, 682, 929 (and 1706), and 1511.

[3] *Official Gazette of the Control Council for Germany*, p. 275.

sioner;

(ii) for the United States Zone

Military Government Law No. 58, as amende plemented by Supplement No. 1 to Instruc plementing Military Government Law No. Control Council Directive No. 50, by Regulat pursuant to Military Government Law No. 5 Article 2 of Allied High Commission Law N

(iii) for the French Zone

Ordinance No. 141 of the French Commander

(c) the blocking, control, administration and final di accordance with the legislation referred to in sub-parag and (b) of this Article, of the property also referred to in t paragraphs pursuant to SHAEF and Military Governm No. 52 (as amended)[2] and the regulations, orders, lice instructions issued thereunder, so far as applicable to s erty or the proceeds thereof.

ARTICLE 2

The Federal Republic hereby acknowledges the need fo sumes the obligation to implement fully and expeditiousl every means in its power, the legislation referred to in A this Chapter and the programmes for restitution and re thereunder provided. The Federal Republic shall entrust agency with ensuring the fulfilment of the obligation unde this Article, paying due regard to the provisions of the Ba The following Articles of this Chapter shall not be construed to the measures therein specified the obligation assumed Article.

ARTICLE 3

1. Subject to the provisions of Article 6 of this Chapter, lation referred to in Article 1 of this Chapter, as amended in 2 of Article 4 of this Chapter, shall be maintained in forc claims filed thereunder have been fully dealt with. More portion of such legislation as relates to the establishment, continued existence of successor organizations and trust co shall be maintained in force until all such organizations an tions have completed the tasks for which they were created

2. The Federal Republic may exercise all legislative powe able by the Three Powers or any of them pursuant to such in a manner not inconsistent therewith, by means of Fede tion or of ordinances of the Federal Government.

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[1] *Military Government Gazette*, issue E, p. 16; *Official Gazette of Council for Germany*, p. 275; *Official Gazette of the Allied High Com Germany*, p. 779.

[2] *Military Government Gazette*, issue A, p. 24; for the many amen *Cumulative Index of Legislation of the Control Council for Germany* .

[3] *Germany, 1947–1949: The Story in Documents* (Department of St tion 3556; 1950), pp. 283–305.

4. The Federal Republic hereby undertakes to maintain and to augment or supplement in the several Zones of Occupation of the Three Powers, where necessary for the effective carrying out of the programmes referred to in Article 2 of this Chapter, the existing administrative and judicial agencies or organizations which are concerned with

(a) the blocking, control, administration, unblocking and disposal of property subject to claims under the legislation referred to in Article 1;

(b) the filing, investigation, assessment, adjudication and final settlement of claims under that legislation.

5. The Federal Republic further undertakes

(a) [Deleted.]

(b) [Deleted.]

(c) [Deleted.]

(d) at all times after the entry into force of the present Convention, to apply to non-residents who are successful claimants under the legislation referred to in Article 1 of this Chapter terms and conditions for the following transactions:

(i) the use and disposal (including the removal from the Federal territory) of property restituted to them, or of property acquired in replacement or with the proceeds thereof, and

(ii) the use and disposal of Deutsche Mark balances resulting from the satisfaction of restitution claims and from the proceeds of the realization of restituted properties including the conversion of such balances into foreign exchange and the transfer abroad of such exchange

which shall be no less favourable than those applicable to them immediately before the entry into force of the present Convention, or than those which may, at the time of the transaction, be applicable to owners of other property who give up their ordinary residence in the Federal territory, whichever are the more favourable.

6. The undertakings of the Federal Republic pursuant to this Article and to Article 2 of this Chapter shall not involve any direct obligation with regard to the establishment of the Restitution Agencies of the Länder, and the agencies of the Länder dealing with the matters referred to in sub-paragraph (c) of Article 1 of this Chapter, and their administrative procedures. However, no changes shall be made with regard to existing establishments and administrative procedures which would in any way impede or endanger the full and expeditious implementation of the programmes referred to in Article 2

ARTICLE 4

1. The Federal Republic hereby undertakes

(a) subject to paragraph 3 of this Article, to ensure the payment to restitutees of all judgments or awards which have been or hereafter shall be given or made against the former German

(b) to assume forthwith, by appropriate arrangements with the City of Berlin, liability for the payment, on terms corresponding to those set out in this Article, of all judgments and awards against the former German Reich under the internal restitution legislation in force in the Western Sectors of Berlin.

2. The legislation referred to in subparagraphs (a) and (b) of Article 1 of this Chapter shall be deemed to be amended so as to provide that judgments or awards based on indebtedness in Reichsmarks of the former Reich for a sum of money (Geldsummenansprüche) shall be converted into Deutsche Marks at the rate of ten Reichsmarks for one Deutsche Mark. Judgments or awards for compensation which may be given against the former Reich under the legislation referred to in subparagraphs (a) and (b) of Article 1 shall be made in Deutsche Marks assessed in accordance with the general principles of German law applicable to the assessment of compensation as set forth in the German Civil Code.

3. The obligation of the Federal Republic to the Three Powers with respect to money judgments and awards under paragraph 1 of this Article shall be satisfied when such judgments and awards shall have been paid or shall, if the Federal Republic so requests, be considered to have been satisfied when the Federal Republic shall have paid a total of DM 1,500,000,000 thereon. In determining the time and method of payment of such judgments and awards, the Federal Republic may take into consideration its capacity to pay.

ARTICLE 5

Successor organizations and trust corporations appointed pursuant to the legislation referred to in sub-paragraph (a) of Article 1 of this Chapter, whether or not organized under German law, now enjoy immunity from taxation in the Federal Republic. With regard to taxes the proceeds of which accrue exclusively to the Federation, the organizations and corporations shall continue to enjoy this immunity. They shall also be exempt from any exceptional taxes, levies and imposts, the incidence of which is in fact upon capital assets, imposed in whole or in part for the specific purpose of meeting charges arising out of the war, or out of reparation or restitution to any of the United Nations. With regard to taxes the proceeds of which accrue, in whole or in part, to the Länder, Gemeinden or Gemeindeverbände, the Federal Government will enter into a separate arrangement having in mind the charitable purposes of these organizations and corporations.

ARTICLE 6

1. There is hereby established a Supreme Restitution Court to succeed, under the legislation referred to in sub-paragraph (a) of Article 1 of this Chapter:

(a) the Supreme Restitution Court for the British Zone;

(b) the United States Court of Restitution Appeals of the Allied High Commission for Germany for the United States Zone;

Restitutions) for the French Zone.

The composition, jurisdiction, powers and duties of the Supreme Restitution Court shall be as prescribed by the Charter of the Supreme Restitution Court annexed to this Chapter.

2. Each Tribunal to which the Supreme Restitution Court succeeds shall within three months decide those cases in process of final disposition on the entry into force of the present Convention and shall refer to the Supreme Restitution Court all cases not decided at the end of that period. For the purposes of the present Convention, cases which a tribunal, on the entry into force of the present Convention, has not begun to investigate and consider judicially, or has investigated and considered judicially only in regard to matters of procedure, shall not be considered as cases which, on the entry into force of the present Convention, were in process of final disposition.

Annex to Chapter Three

CHARTER OF THE SUPREME RESTITUTION COURT

ARTICLE 1

1. The Court shall consist of
   (a) the President of the Court,
   (b) the Presidential Council (Präsidium),
   (c) three Divisions (Senate).

2. Each Division shall be composed of at least five justices, a Clerk and registry, with sufficient personnel to carry out its functions effectively.

3. State Counsel may be appointed to any of the Divisions in such a manner as the Governments of the Three Powers and the Federal Government may decide. Paragraphs 3, 4 and 5 of Article 2 and paragraphs 1, 4, 5 and 6 of Article 3 of the present Charter shall apply *mutatis mutandis*.

4. A Division shall be dissolved when no further cases remain to be dealt with by it. The terms of office of all its justices shall thereupon terminate. The Court shall be dissolved on the same date as the last active Division is dissolved.

5. The seat of the Court shall be at Herford. The First Division of the Court shall have its seat at Rastatt, the Second Division at Herford and the Third Division at Nuremberg.

6. The Presidential Council may from time to time with the approval of the Governments of the Three Powers and the Federal Government determine
   (a) a new seat for the Court or any of its Divisions,
   (b) the number of justices required by any of the Divisions in addition to those appointed in accordance with Article 2,
   (c) the date of dissolution of each of the Divisions,
   (d) the establishment of administrative and other non-judicial

is not provided for in the present Charter.

7. Without prejudice to the provisions of paragraph 6, the Presidential Council shall render annual reports to the Governments of the Three Powers and the Federal Government setting forth its requirements for judicial and other personnel for the twelve months next following the date of the report. The first report shall be rendered between the fourteenth and seventeenth month after the entry into force of the present Charter.

ARTICLE 2

1. The five justices referred to in paragraph 2 of Article 1 shall be appointed as follows:

(a) two justices appointed by the Government of the French Republic in the case of the First Division; two by the Government of the United Kingdom in the case of the Second Division; and two by the Government of the United States in the case of the Third Division;

(b) two justices appointed by the Federal Government;

(c) one justice who shall be neither a national of any of the Three Powers nor a German national, and who shall be appointed by agreement between the Government of the Power designated in sub-paragraph (a) of this paragraph to appoint justices to the Division concerned (hereinafter referred to as "the Power concerned") and the Federal Government, or failing such agreement, by the President of the International Court of Justice.

2. The Governments of the Three Powers and the Federal Government shall make known their first appointments pursuant to paragraph 1 of this Article not later than the date of entry into force of the present Charter. By the same date the Power concerned and the Federal Government shall agree upon the justice referred to in sub-paragraph (c) of paragraph 1. If he has not been appointed within one month after that date, either the Power concerned or the Federal Government may request the President of the International Court of Justice to appoint him. The provisions of the preceding sentence shall also apply if the Power concerned and the Federal Government fail to agree on the appointment of an additional justice who is not to be appointed unilaterally by the Power concerned or the Federal Government, within one month after approval of a decision of the Presidential Council under sub-paragraph (b) of paragraph 6 of Article 1 of the present Charter that such an additional justice is required.

3. The justices appointed by the Governments of the Three Powers shall be qualified in accordance with the legislation referred to in Article 1 of the foregoing Chapter. The justices appointed by the Federal Government shall be qualified for judicial office in a Land of the Federal Republic. The other justices shall have the qualifications required in the country of which they are nationals or residents for appointment to judicial office or equivalent qualifications.

4. The Presidential Council may declare a vacancy for a justice if in its opinion, a justice has, without reasonable excuse, failed

(a) to attend a meeting for which he has been duly designated or

(b) otherwise to perform his duties diligently.

5. The appointment to fill a vacancy created by the expiration o the term of office, death, resignation, or removal from office in accordance with the preceding paragraph of a justice shall be made in the same manner as his appointment within one month of the vacancy occurring.

ARTICLE 3

1. Subject to the provisions of paragraph 4 of Article 1 of the present Charter, all justices shall be appointed in the first instance for a period of two years and their terms of office may be renewed thereafter for successive periods of one year. At least six months' notice in writing shall be given to a justice of intention not to renew his term of office. A justice appointed by the Government of one of the Three Powers shall be notified of such intention by the Power concerned a justice appointed by the Federal Government shall be notified of such intention by it, and a justice appointed by the Government of one o the Three Powers and the Federal Government jointly or by the President of the International Court of Justice shall be notified o such intention by the Power concerned and the Federal Government In the absence of notice, a justice shall continue in office for a period of one year.

2. Any justice may at any time resign his office. But he shal continue in office until his successor has taken office.

3. No justice may be dismissed from office, except in accordance with paragraph 4 of Article 2 of the present Charter.

4. No justice shall be assigned to any non-judicial function, engage in any activity incompatible with the exercise of his duties, or participate in the adjudication of any claim with which he has been previously concerned in any capacity, except as a member of a tribuna to which the Court succeeds, or in which he has a direct interest Differences of opinion regarding the applicability of this paragraph shall be resolved by the appropriate Division in accordance with Article 8 of the present Charter.

5. (a) Every justice shall, during his term of office, have the rank of an equivalent member of the Federal Supreme Court and shall both during and after his term of office, enjoy immunity from suit in respect of acts performed by him in the exercise of hi official duties.

(b) A justice who is not a German national shall, during hi term of office, enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions

6. Each justice shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

1. Each Division shall be presided over by the justice appointed pursuant to subparagraph (c) of paragraph 1 of Article 2 of the present Charter. When he is unable to act, he shall be replaced by a deputy designated by the Presidential Council from the justices not appointed unilaterally by the Power concerned or the Federal Government.

2. The presiding justice or his deputy shall preside at all sittings of his Division, shall fix the time of the sittings, shall determine how the business of the Division shall be divided between its justices and shall be generally responsible for its administration.

ARTICLE 5

1. The presiding justice of the First Division shall act as President of the Court for the remainder of the calendar month in which the present Charter enters into force and for the four full calendar months next following. Thereafter, the presiding justice of each Division in his turn shall so act for four calendar months at a time.

2. The Presidential Council shall consist of the following nine persons:

(a) the President of the Court and the other two presiding justices of Divisions, or their respective deputies;

(b) a justice from each Division or his deputy designated by the Power concerned;

(c) a justice from each Division or his deputy designated by the Federal Government.

3. The Council shall decide by a majority vote of the nine members, except in cases arising under paragraph 4 of Article 2 of the present Charter, when a two-thirds majority shall be necessary.

4. The Council shall meet at the seat of the Court at such times as the President shall decide.

5. The Council shall be competent

(a) to consider, at the request of any of its members, questions which are of common interest to more than one Division and to inform the presiding justices of the Divisions accordingly;

(b) to decide concerning the interpretation or application of the present Charter, or concerning any other matters assigned to its competence by the present Charter;

(c) to exercise the following powers conferred by the legislation referred to in Article 1 of the foregoing Chapter;

(i) [Deleted.]

(ii) the powers of the United Kingdom High Commissioner, under paragraph 8 of Article 2 and paragraph 4 of Article 3 of Regulation No. 8, as amended by Regulation No. 11, under British Military Government Law No. 59, to approve rules of procedure; and, under his Ordinance No. 233, to approve agencies by notice.

6. The Presidential Council shall appoint the Court Clerks nominated under paragraph 1 of Article 6 of the present Charter, but they shall be directly and exclusively responsible to the presiding justices

Council may also appoint its own administrative staff, which shall be subject to the control of the President of the Court and may be nominated by the Federal Government if the Presidential Council so desires.

7. The Council may determine its own rules of procedure.

ARTICLE 6

1. The Court Clerks shall be nominated as follows:

(a) the Clerk of the First Division, by the Government of the French Republic;

(b) the Clerk of the Second Division, by the Government of the United Kingdom;

(c) the Clerk of the Third Division, by the Government of the United States.

2. Each Court Clerk shall have the same powers and duties as the Clerk or Secretary of the tribunal to which his Division succeeds and uch additional duties as shall be assigned to him by the presiding justice of that Division.

3. Paragraphs 3, 4 and 5 of Article 2 and paragraphs 4 and 5 of Article 3 of the present Charter shall apply *mutatis mutandis* to the Court Clerks.

ARTICLE 7

1. The Federal Republic shall maintain at its own cost and expense the existing facilities and accommodations in use by the tribunals to which the Court succeeds and shall provide such additional facilities nd accommodations as the Court may, according to a decision of the Presidential Council, from time to time require.

2. (a) The salaries and allowances of the judicial, administrative and other staff of the Court which is nominated, appointed, or employed by the Government of any of the Three Powers shall be fixed and paid by that Power in consultation with the Federal Government. Such salaries and allowances shall be reimbursed to that Power by the Federal Republic.

(b) The salaries and allowances of the judicial, administrative and other staff which are nominated, appointed, or employed by the Federal Government shall be fixed by the Federal Government, in consultation with the Power concerned, and paid by the Federal Republic.

(c) The salaries and allowances of justices who are not appointed unilaterally by the Power concerned or the Federal Government shall be fixed by agreement between the Governments of the Three Powers and the Federal Government and paid by the Federal Republic.

3. All persons referred to in subparagraphs (a) and (b) of paragraph 2 of this Article shall be subject to the administrative and disciplinary control of the appointing, nominating or employing Government, so far as such a control is not inconsistent with the present Charter.

1. All matters shall be adjudicated by five justices of the appropriate Division, of whom one shall be the President or his deputy, two shall be justices appointed by the Power concerned, and two shall be justices appointed by the Federal Government.

2. Decisions of the Divisions shall be given by majority vote and shall be final subject only to the provisions of paragraph 3 of Article 9 of the present Charter.

3. The public shall be admitted to all formal hearings (mündliche Verhandlungen).

4. The deliberations of the Presidential Council and of the Divisions shall be secret.

ARTICLE 9

1. The Court shall exercise powers and jurisdiction through its Divisions as follows:

(a) the First Division shall exercise the powers and jurisdiction of the Higher Restitution Court established by Ordinance No. 252 of the French High Commissioner;

(b) the Second Division shall exercise the powers and jurisdiction of the Supreme Restitution Court for the British Zone established by Ordinance No. 255 of the United Kingdom High Commissioner;

(c) the Third Division shall exercise the powers and jurisdiction of the Court of Restitution Appeals established by Law No. 21 (as amended) of the United States High Commissioner.[1]

2. The legislation referred to in Article 1 of the foregoing Chapter shall accordingly be construed and applied by substituting the First Division for the Higher Restitution Court in legislation applicable in the French Zone, the Second Division for the Supreme Restitution Court for the British Zone in legislation applicable in the British Zone, and the Third Division for the Court of Restitution Appeals in legislation applicable in the United States Zone.

3. Decisions of the Arbitration Tribunal pursuant to paragraph 2 of Article 9 of the Charter of the Arbitration Tribunal referred[2] to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany[3] and the provisions of Article 10 of that Charter[4] shall be binding on the Court and on all German courts and authorities, so far as those decisions and provisions concern the extent of the jurisdiction of the Court.

ARTICLE 10

1. The official languages of the Presidential Council shall be French, English and German.

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[1] See *supra*, p. 507, footnote 2.

[2] *Supra*, p. 494.

[3] *Supra*, pp. 489–490.

[4] *Supra*, p. 495.

(a) for the First Division, French and German;
(b) for the Second and Third Divisions, English and German

CHAPTER FOUR—COMPENSATION FOR VICTIMS OF NAZI PERSECUTIO

1. The Federal Republic acknowledges the obligation to assure i accordance with the provisions of paragraphs 2 and 3 of this Chapte adequate compensation to persons persecuted for their political con victions, race, faith or ideology, who thereby have suffered damage t life, limb, health, liberty, property, their possessions or economi prospects (excluding identifiable property subject to restitution) Furthermore, persons persecuted by reason of nationality, in disregar of human rights, who are now political refugees and no longer enjo the protection of their former home country shall receive adequat compensation where permanent injury has been inflicted on thei health.

2. In the discharge of this obligation, the Federal Republic undertakes

(a) that legislation in this field in the Federal territory shal in the future be not less favourable to claimants than the legislation in force;

(b) that, furthermore, there shall be enacted expeditiousl legislation supplementing and amending the legislation now i force in the various Länder which shall, subject to the provision of sub-paragraph (a) of this paragraph, afford a basis throughou the Federal territory for compensation no less favourable than i afforded in the legislation now in force in the Länder of th United States Zone;

(c) that the legislation referred to in subparagraph (b) of thi paragraph shall adequately take into account the special conditions arising from the persecution itself, including the loss an destruction of records and documents resulting from the conditions of the persecution or the acts of the persecuting agencie and the death or disappearance of witnesses and of persecute persons as a result of the persecution;

(d) that the effective and expeditious processing, determinatio and satisfaction of claims for compensation in this field shall b assured without discrimination against any groups or classes o persecuted persons;

(e) that in all cases where a claim for compensation submitte to the competent authorities has been disallowed under th legislation then in force, but where such a claim would be admissible under supplementary or replacement legislation enacted i accordance with sub-paragraph (b) of this paragraph, the persecuted person shall be assured the possibility of submitting agai his claim in spite of the previous rejection thereof;

(f) that the provision of funds adequate to meet all claim under the legislation referred to in sub-paragraphs (a) and (b) o accordance with paragraph 3 of this Chapter.

3. The capacity to pay of the Federal Republic may be taken into consideration in determining the time and method of compensation payments under paragraph 1 of this Chapter and in providing adequate funds under sub-paragraph (f) of paragraph 2.

CHAPTER FIVE—EXTERNAL RESTITUTION

ARTICLE 1

1. Upon the entry into force of the present Convention, the Federal Republic shall establish, staff and equip an administrative agency which shall, as provided in this Chapter and the Annex thereto, search for, recover and restitute jewellery, silverware and antique furniture (where individual articles are of substantial value), and cultural property, if such articles or cultural property were, during the occupation of any territory, removed therefrom by the forces or authorities of Germany or its Allies or their individual members (whether or not pursuant to orders) after acquisition by duress (with or without violence), by larceny, by requisitioning or by other forms of dispossession by force.

2. In the case of cultural property which was present in the country concerned prior to the date applicable to that country as specified in Article 5 of this Chapter, restitution shall also be made

(a) if it was acquired by way of gift made under direct or indirect pressure or in consideration of the official position of the recipient;

(b) if it was acquired by way of purchase, unless it had been brought into the country concerned for the purpose of sale.

3. In the case of jewellery, silverware or antique furniture, restitution may be denied if it is established that the property concerned was removed after acquisition from the original owner for value by way of a regular commercial transaction, even if payment was made in occupation currency.

4. The term "cultural property" shall comprise movable goods o religious, artistic, documentary, scholarly or historic value, or o equivalent importance, including objects customarily found in museums, public or private collections, libraries or historic archives The term "antique" shall mean property which upon the entry into force of the present Convention is one hundred or more years old The term "substantial value" shall mean a value of not less than 200,000 French francs at the 1 January 1951 purchasing power.

5. The agency referred to in paragraph 1 of this Article will give information on matters dealt with by it to the Three Powers or their representatives on request and submit quarterly reports on its activity The records of the agency shall be preserved until otherwise agreed

ARTICLE 2

1. Restitution pursuant to Article 1 of this Chapter may be requested from the Federal Government only by the Government of th

Federal Government may reject a restitution request if such request has already been rejected as not well founded by the appropriate agency of one of the Three Powers, except in a case where evidence which could not previously be presented is adduced.

2. Restitution of jewellery, silverware or antique furniture may only be claimed from the Federal Government if a pertinent request has been lodged with an agency of any of the Three Powers prior to the entry into force of the present Convention. In the case of cultural property, no new claim for restitution may be filed after 8 May 1956. Where, in any particular case, the investigations of the German agency referred to in Article 1 of this Chapter with respect to claimed property have been unsuccessful or where they have not led to the discovery of the claimed property by 8 May 1957, and where further investigations are unlikely to be successful, the agency shall discontinue the proceedings. Such a decision may be appealed from by the party concerned to the Arbitral Commission on Property, Rights and Interests in Germany pursuant to Article 7. If, after such discontinuance, the claimed property is identified, the restitution proceedings may be reopened.

3. Claims filed with an agency of any of the Three Powers and not finally disposed of prior to the entry into force of the present Convention and falling within the scope of the provisions of Article 1 of this Chapter and this Article shall be referred by the Power concerned to the German agency referred to in Article 1. They shall be acted upon by the German agency as though filed directly with it by the claimant Government.

4. Submission of a claim for restitution pursuant to Article 1 of this Chapter on behalf of any person or entity shall preclude such submission pursuant to Article 3; likewise, action for restitution pursuant to Article 3 shall preclude submission of a claim for restitution pursuant to Article 1.

ARTICLE 3

1. Notwithstanding provisions of German law to the contrary, any person who, or whose predecessor in title, during the occupation of a territory, has been dispossessed of his property by larceny or by duress (with or without violence) by the forces or authorities of Germany or its Allies, or their individual members (whether or not pursuant to orders), shall have a claim against the present possessor of such property for its restitution, subject, however, to:

(a) reimbursement by the claimant to the defendant for expenditures, which have enhanced the value of the property, made after its acquisition;

(b) payment by the claimant of the value of any consideration received by him or his predecessor in title, which shall be treated in the same manner as German assets existing at the date of removal in the country from which the property was removed.

No such claim shall exist if the present possessor has possessed the property bona fide for ten years or until 8 May 1956, whichever is later.

may be brought before a German court on or before 8 May 1956 or before the expiration of ten years during which the possessor possessed the property bona fide, whichever is later, by any national or resident of a State which has acceded to the Charter of the Arbitral Commission on Property, Rights and Interests in Germany.[1]

3. No restitution claim may be asserted, if, prior to the entry into force of the present Convention, a request by a Government on behalf of the claimant for restitution of the property concerned was rejected as not well founded by an agency of one of the Three Powers, except in a case where evidence which could not previously be presented is adduced.

ARTICLE 4

1. If property to be restituted has, after identification in Germany, either been utilized or consumed in Germany before return to the claimant or been destroyed, stolen or otherwise disposed of before receipt by the claimant Government or by an appropriate agency of one of the Three Powers for despatch to the claimant, the Federal Republic shall compensate claimants who would otherwise be entitled to restitution under Article 1 or 3 of this Chapter, or who, at the entry into force of the present Convention, have had their claims for restitution approved by one of the Three Powers.

2. The German agency referred to in Article 1 of this Chapter shall, upon application by the claimant otherwise entitled to restitution, render a decision on the compensation claim in respect of property the restitution of which could have been requested under Articles 1 and 2. The court stipulated in Article 3 shall, upon suit brought by the claimant otherwise entitled to restitution, render a decision on the compensation claim in respect of property the restitution of which could have been requested under Article 3, provided that the plaintiff is a national or a resident of a State which has acceded to the Charter of the Arbitral Commission on Property, Rights and Interests in Germany. The filing of the application and the bringing of the suit must take place not later than one year after the entry into force of the present convention or one year after notification to the claimant that the property is not available for restitution, whichever is later.

3. Notwithstanding the provisions of paragraph 2 of this Article, claims falling within the scope of paragraph 1 filed with an agency of any of the Three Powers before the entry into force of the present Convention may either be referred by that Power to the German agency referred to in Article 1 of this Chapter or be filed with that agency by the claimant Government. All claims under this paragraph shall be referred to or filed with the agency not later than six months after the entry into force of the present Convention and shall be decided by it.

4. The German agency referred to in Article 1 of this Chapter shall recognize claims for restitution which have been approved by any of the Three Powers prior to the entry into force of the present Conven-

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[1] The text of the charter appears as the annex to this convention, *infra* pp. 600–607.

one of the Three Powers that the property which was the subject of the claim had not been received by an appropriate agency of that Power for despatch to the claimant.

5. Compensation pursuant to this Article shall be awarded in the amount of the replacement value of the property concerned as of the date of the award.

ARTICLE 5

1. The provisions of this Chapter shall apply in respect of the following countries as of the respective date set forth below:

Country	Date
Austria	12 March 1938
Czechoslovakia	1 April 1939
Poland	1 September 1939
Denmark	9 April 1940
Norway	9 April 1940
Belgium	10 May 1940
Luxembourg	10 May 1940
Netherlands	10 May 1940
France	17 May 1940
Greece	28 October 1940
Yugoslavia	6 April 1941
Union of Soviet Socialist Republics	22 June 1941
Italy	3 September 1943
Rumania	12 September 1944
Finland	19 September 1944
Bulgaria	28 October 1944
Hungary	20 January 1945

2. The provisions of this Chapter shall cover public and privat property which was removed from territories referred to in paragraph 1 of this Article.

ARTICLE 6

If the Federal Republic concludes with any other Power, on matters within the scope of this Chapter, arrangements more favourable to such other Power than the corresponding provisions of this Chapter the benefits of such new arrangements shall automatically be extended to all powers benefiting from those provisions.

ARTICLE 7

1. The Signatory States hereby establish an Arbitral Commission on Property, Rights and Interests in Germany, which shall function in accordance with the provisions of its Charter annexed to the present Convention.

2. Upon application of the party concerned, any final decision (Endentscheidung) by the German agency pursuant to Articles 1, 2 or 4 of this Chapter, or by a German court pursuant to Articles 3 or 4 shall be subject to review by the Arbitral Commission on Property Rights and Interests in Germany.

3. Application to the Commission shall be submitted by the party concerned within thirty days after service of such decision. If the German agency or the German court does not render a decision within

expiration of the one year period.

4. In any case submitted to it, the Commission may itself render a final decision in regard to such case or may remand it to the German agency or to the German court with such instructions as the Commission deems necessary or appropriate.

5. The judgments of the Commission shall be final and binding on the authorities and courts of the Signatory States and other States acceding to its Charter.

ANNEX TO CHAPTER FIVE

Section 1

1. The Federal Government shall establish the administrative agency provided for in paragraph 1 of Article 1 of the foregoing Chapter as a Federal Higher Authority (Bundesoberbehörde).

2. All German courts and authorities shall render the Federal Higher Authority legal and other official assistance pursuant to Article 35 of the Basic Law.[1]

Section 2

1. Applications for restitution pursuant to Articles 1 and 2 of the foregoing Chapter, with the exception of those specified in paragraph 3 of Article 2, shall include

(a) a description of the property restitution of which is demanded;

(b) when possible, identification of the person possessing such property at the time of filing of the application;

(c) a description of the facts on which the restitution claim is based.

2. Certified copies of the documents supporting the restitution claim shall be attached to the application or shall be subsequently submitted.

Section 3

1. Applications for compensation pursuant to Article 4 of the foregoing Chapter, with the exception of those specified in paragraph 3 of that Article, shall include

(a) a description of the property in respect of which compensation is demanded;

(b) information relating to the identification in Germany of such property;

(c) information relating to the utilization, consumption, destruction, theft or disposal of such property;

(d) notice of the amount claimed;

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[1] *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), p. 287.

claim is based.

2. Certified copies of the documents supporting the compensation claim shall be attached to the application or shall be subsequently submitted.

Section 4

Proceedings before the Federal Higher Authority shall be free of harge.

Section 5

1. The Federal Higher Authority shall conduct the necessary investigations. For this purpose it may on its own motion (von Amts wegen) take evidence by accelerated procedure; in particular, it may hear witnesses, experts and the persons whose rights are ffected by the restitution or cause their hearing before a court. Where a hearing under oath appears necessary, such oath shall be sworn before a court. The Federal Higher Authority shall be authorized to accept statements in lieu of oaths (eidesstattliche Vericherungen).

2. In addition to the applying Government, all persons shall be onsidered parties concerned whose rights would be affected by the restitution.

3. The parties concerned shall be afforded an opportunity to state heir views. They may be represented by agents or counsel. They shall be notified of the dates of the hearings ordered for the purpose of nterrogations pursuant to the second sentence of paragraph 1 of this Section and may attend these hearings. The documents filed by a party concerned shall be transmitted to the other parties.

Section 6

Where realization of the restitution claim appears to be endangered the Federal Higher Authority shall order the necessary interim measres to be taken for safeguarding the property.

Section 7

Decisions of the Federal Higher Authority shall state in writing the reasons on which they are based and shall be served upon the parties concerned.

Section 8

1. The Federal Higher Authority shall take all measures required for the restitution. Where necessary the Federal Higher Authority shall order that property to be restituted shall be expropriated in favour of the Federal Republic, which will forward (zuleiten) it to the restitution claimant.

2. The nature and amount of the compensation to persons affected by the expropriation shall be fixed by a Federal law.

3. Where the Federal Higher Authority allows a claim under

compensation to be paid by the Federal Republic.

CHAPTER SIX—REPARATION

ARTICLE 1

1. The problem of reparation shall be settled by the peace treaty between Germany and its former enemies or by earlier agreements concerning this matter. The Three Powers undertake that they will at no time assert any claim for reparation against the current production of the Federal Republic.

2. Pending the final settlement envisaged in paragraph 1 of this Article, the following provisions shall apply.

ARTICLE 2

Control Council Law No. 5[1] is deprived of effect in the Federal territory, except in respect of the countries listed in the Schedule to Allied High Commission Law No. 63, as amended by Decision No. 24 of the Allied High Commission,[2] but shall not be further deprived of effect or amended without the consent of the Three Powers. The Federal Republic will not repeal or amend Law No. 63 except with the consent of the Three Powers. However, paragraph 1 of Article 6 of Law No. 63 shall be deemed to be repealed and paragraph 2 to be amended to provide that the powers therein conferred upon the Allied High Commission may be exercised by the Federal Government. The Federal Republic undertakes that appropriate decisions under Article 6 of Law No. 63, as so amended, removing the countries from the list in the Schedule thereto shall be issued after the Three Powers have consented.

ARTICLE 3

1. The Federal Republic shall in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war, or on the basis of agreements concluded, or to be concluded, by the Three Powers with other Allied countries, neutral countries or former allies of Germany.

2. The Federal Republic shall abide by such provisions regulating German external assets in Austria as are set forth in any agreement to which the Powers now in occupation of Austria are parties or as may be contained in the future State Treaty with Austria.[3]

3. No claim or action shall be admissible against persons who shall have acquired or transferred title to property on the basis of the measures referred to in paragraphs 1 and 2 of this Article, or against international organizations, foreign governments or persons who have acted upon instructions of such organizations or governments.

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[1] *Official Gazette of the Control Council for Germany*, p. 27.

[2] *Official Gazette of the Allied High Commission for Germany*, pp. 1107 and 2498.

[3] Treaty of May 15, 1955; *infra*, pp. 643-675.

ARTICLE 4

1. Where German external assets have not been transferred o liquidated, or where no disposition has been made in respect of the proceeds of their liquidation, the Federal Republic may negotiate agreements regarding them with all countries which have been at wa with Germany since 1 September 1939 but are not members of th Inter-Allied Reparation Agency (IARA).[1]

2. Moreover, the Federal Republic may negotiate agreements with the member countries of IARA, provided such agreements relat only to

(a) property of the types which member countries of the IARA may, under Part III of the IARA accounting rules, voluntaril exclude from the charge to be made under Part II of the rules

(b) securities of German issue expressed in Reichsmarks;

(c) pensions;

(d) a final date for sequestration of German property in countries in which such a date has not yet been determined.

3. Regarding property taken as German assets in Portugal, Spain Sweden and Switzerland, with respect to which agreements concluded by the Three Powers[2] are, or will be, in force, the Federal Republi may negotiate with those countries arrangements in implementatio of such agreements concerning the nature and amount of compensation to be paid to former German owners of assets in those countries The Three Powers shall have the right to participate in suc negotiations.

4. Apart from the questions referred to in the preceding paragraph of this Article, the Federal Republic may, after due notification t the Three Powers, negotiate with any country agreements on othe questions concerning German external assets unless the Three Power specifically object thereto.

ARTICLE 5

The Federal Republic shall ensure that the former owners of prop erty seized pursuant to the measures referred to in Articles 2 and 3 o this Chapter shall be compensated.

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[1] Membership in the Inter-Allied Reparation Agency is limited to those govern ments which signed the Reparations Agreement of Dec. 21, 1945 (TIAS 1655 61 Stat., pt. 3, p. 3157), plus the Government of Pakistan. Members therefor include Albania, Australia, Belgium, Canada, Czechoslovakia, Denmark, Egypt France, Greece, India, Luxembourg, the Netherlands, New Zealand, Norway Pakistan, the Union of South Africa, the United Kingdom, the United States and Yugoslavia.

[2] Of the agreements here referred to, the one between the Three Powers an Switzerland was signed May 25, 1946 (Department of State *Bulletin*, June 30 1946, pp. 1121–1124) and was amended by an agreement signed August 28, 195 (*ibid.*, Sept. 8, 1952, pp. 363–364). The agreement with Sweden was signe July 18, 1946 (TIAS 1657; 61 Stat., pt. 3, p. 3191), and the agreement with Spai was signed May 10, 1948 (TIAS 1733; 62 Stat., pt. 2, p. 2061). An agreemen was signed with Portugal, Feb. 21, 1947; it did not enter into force, however, an its text has not been printed.

ARTICLE 1

The Federal Republic undertakes

(a) [Deleted.]

(b) [Deleted.]

(c) [Deleted.]

(d) to assure the continuance of the operations presently carried out by the International Tracing Service;

(e) to assume the proper care and maintenance of the graves of Allied civilian war victims (unless otherwise provided for by the nations concerned), displaced persons and non-German refugees in the Federal territory and to facilitate pilgrimages by relatives to these graves;

(f) to afford to the authorities of the Three Powers and other Allied nations concerned the same facilities as they now enjoy for the exhumation and removal of bodies of war victims.

ARTICLE 2

The Federal Republic will see to the proper care and maintenance of the graves of Allied soldiers in the Federal territory, unless otherwise provided for by the nations concerned or by organizations of such nations serving that purpose, and will facilitate the work of such organizations. Each of the Three Powers will see to the proper care and maintenance of the graves of German soldiers in its metropolitan territory and will facilitate the activities of organizations serving that purpose.

ARTICLE 3

[Deleted.]

ARTICLE 4

The Three Powers declare themselves willing to conduct, when the necessity arises, negotiations concerning the transfer of refugees to the Federal territory with the Governments of those countries in which the Federal Republic has no diplomatic representation.

CHAPTER EIGHT—CLAIMS AGAINST GERMANY

[Deleted with Annex.]

CHAPTER NINE—CLAIMS AGAINST FOREIGN NATIONS OR NATIONALS

ARTICLE 1

Without prejudice to the terms of a peace settlement with Germany, German nationals who are subject to the jurisdiction of the Federal Republic shall not assert against countries which have signed or acceded to the United Nations Declaration of 1 January 1942,[1] or have been at war with Germany, or are specified in Article 5 of Chapter

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Five of the present Convention, or against the nationals of such countries, claims of any description arising out of actions taken or authorized by the Governments of these countries between 1 September 1939 and 5 June 1945 because of the existence of a state of war in Europe, nor shall such claims be asserted in any court of the Federal Republic by any person.

ARTICLE 2

Without prejudice to the terms of a peace settlement with Germany, the Federal Republic confirms that no governmental claims on behalf of Germany arising out of actions taken or authorized by the Governments of the countries referred to in Article 1 of this Chapter between 1 September 1939 and 5 June 1945 because of the existence of a state of war in Europe may be asserted prior to the negotiation of the peace settlement.

ARTICLE 3

1. The provisions of this Article are applicable during the period until the entry into force of a peace settlement with Germany.

2. The Federal Republic recognizes that no claims of any kind arising out of acts or omissions of the Three Powers or any one of them, or of organizations or persons who have acted on their behalf or under their authority, which took place in respect of Germany, German nationals or German property, or in Germany, between 5 June 1945 and the entry into force of the present Convention, may be asserted by the Federal Republic or by persons subject to its jurisdiction against the Three Powers or any one of them or against organizations or persons who have acted on their behalf or under their authority.

3. The Federal Republic assumes responsibility for the decision and satisfaction of claims for compensation for occupation damages which were sustained between 1 August 1945 and the entry into force of the present Convention and for which compensation is payable under the provisions of Allied High Commission Law No. 47, as amended by Allied High Commission Law No. 79.[1] The Federa Republic will determine which of the other claims referred to in paragraph 2 of this Article, insofar as they arose in the Federal territory should appropriately be satisfied and will take such measures as are necessary for the determination and satisfaction of such claims.

4. The provisions of this Article shall not apply to claims arising under contracts providing for payments from national funds of any of the Three Powers.

5. The Federal Government shall carry out all decisions taken with

ARTICLE 4

1. Pursuant to the terms of the agreement embodied in the exchange of letters between the Chairman of the Allied High Commission and the Federal Chancellor of the Federal Republic of Germany of 19 and 21 May 1952,[1] assets of the Joint Export-Import Agency have been or will be transferred to the Federal Republic, and the Federal Republic has undertaken certain obligations.

2. The Federal Republic confirms its undertaking in accordance with such exchange of letters to indemnify the Three Powers and each of them with respect to all liabilities, either now existing or hereafter arising, in connection with the operations of the Joint Export-Import Agency or any agency whose functions were taken over by it or in connection with other foreign trade or foreign exchange operations conducted by the Three Powers or any of them and referred to in the exchange of letters.

3. The provisions of the exchange of letters referred to in paragraph 1 of this Article shall be subject, in the event of a dispute arising after the date of the exchange, to the jurisdiction of the Arbitration Tribunal in the same manner as the present Convention.

CHAPTER TEN—FOREIGN INTERESTS IN GERMANY

ARTICLE 1

1. Insofar as this has not already been done, the Federal Republic will take all steps necessary to ensure that the nations, persons and companies referred to in paragraph 3 of this Article shall be able to secure the return of their property in its present condition, and the restoration of their rights and interests in the Federal territory to the extent to which such property, rights or interests suffered discriminatory treatment. The property, rights and interests of the nations persons and companies referred to in paragraph 3 shall be freed by the Federal Republic from all encumbrances and charges of any kind to which they may have become subject as a result of discriminatory treatment. No costs shall be imposed either in connection with the return or restoration or with the removal of encumbrances or charges Equitable conditions may, however, be imposed to prevent the unjus enrichment of any nation, person or company referred to in paragraph 3.

2. On the entry into force of the present Convention, the Federa Republic shall establish, and give adequate publicity to, the procedure described in the Annex to this Chapter for the filing and consideration of claims based on the provisions of this Article and for the satisfaction

concerning the administration by custodians of property, rights o interests to any interested party who may request it.

3. The following shall be entitled to claim under the provisions o this Article:

(a) United Nations and their nationals,

(b) the successors of such nationals, and

(c) companies organized under German law in which United Nations nationals own participation,

provided that such nationals or, except in the case of direct successors by inheritance or testamentary disposition, their successors were United Nations nationals at the date of the discriminatory treatment

4. The term "discriminatory treatment" as used in this Article shall mean action of all kinds applied between 1 September 1939 and 8 May 1945 to any property, rights or interests, as a result of any exceptional measures which were not applicable generally to all non-German property, rights or interests, and giving rise to prejudice, deprivation or impairment without the free consent of the interested parties and without adequate compensation. Anything done o omitted under the German Ordinance on the Treatment of Enemy Properties of 15 January 1940 or any amendment thereto, or any other regulations having a similar purpose, may be held to amount to discriminatory treatment, even though within the scope of such Ordinance, amendments or regulations, where it appears that

(a) injury to foreign property, rights or interests resulted therefrom; and

(b) the injury inflicted could have been avoided without infringing such Ordinance, amendments or regulations.

5. The provisions of this Article are not applicable to claims which are dealt with under Chapters Three and Four of the present Convention.

6. The provisions of this Article are not intended to cover compensation for loss or damage to property, rights or interests due to discriminatory treatment or resulting indirectly or directly from the war by any other means, but shall not affect the right of any of the United Nations to advance during negotiation for a peace settlement any claim for compensation of this nature with respect to its own or its nationals property, rights or interests.

ARTICLE 2

Insofar as they affect foreign creditors of German debtors, the Federal laws on periods of limitation (including preclusion and prescription) of 28 December 1950 and 30 March 1951 (Gesetz ueber den Ablauf der durch Kriegs- oder Nachkriegsvorschriften gehemmten Fristen and Gesetz zur Ergaenzung des Gesetzes ueber den Ablauf der urch Kriegs- oder Nachkriegsvorschriften gehemmten Fristen (Bundesgesetzblatt 1950, Seite 821 and 1951, Teil I, Seite 213), together with Allied High Commission Law No. 67[1] on the same subject basis of the provisions of the Agreement on German External Debts, concluded in London on 27 February 1953,[1] insofar as this legislation involves claims dealt with in that Agreement.

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[1] *Official Gazette of the Allied High Commission for Germany*, p. 1310.

ARTICLE 3

Without prejudice to the terms of the final peace settlement with Germany, the United Nations and their nationals shall enjoy, on the same basis as German nationals residing in the Federal territory, such compensation for war damage relating to property located in the Federal territory as may be provided by the Federal Republic or any of its Länder, but not Integration Aid (Eingliederungshilfe) or Housing Aid (Wohnraumhilfe).

ARTICLE 4

The Federal Republic reaffirms that under German law the state of war shall not in itself be regarded as affecting obligations to pay pecuniary debts arising out of obligations and contracts which existed, and rights which were acquired, before the commencement of the state of war.

ARTICLE 5

Any United Nations national, or the successor of such a national who is also a United Nations national, shall have the right to institute, within one year from the entry into force of the present Convention, an action for the revision of any judgment delivered by a German Court between 1 September 1939 and 8 May 1945 in any proceeding in which such national was a party and was physically, morally or legally unable to make adequate presentation of his case.

ARTICLE 6

1. Pending a final settlement of claims against Germany arising out of the war, the persons defined in paragraph 2 of this Article, and their property, shall be exempt from any exceptional taxes, levies or imposts, the incidence of which is in fact on property, imposed for the specific purpose of meeting charges arising out of the war or out of reparation or restitution to any of the United Nations.

2. Where any such tax, levy or impost is levied only partly for the purposes described in paragraph 1 of this Article, the exemption to be granted shall in principle be proportionate to the part of such taxes, levies or imposts imposed for these purposes. In the particular cases of the levies prescribed by the legislation of the Bizonal Economic Council and by the corresponding legislation of the Länder of Rhineland-Palatinate, Baden and Wuerttemberg-Hohenzollern, concerning Immediate Aid (Soforthilfe) and by the Law on Equalization of Burdens of 14 August 1952 (Bundesgesetzblatt Teil I Seite 446), the persons and property described in the following provisions of this Article shall be exempted, to the extent provided, from payments

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[1] TIAS 2792; 4 UST 443.

as Immediate Aid levies, and as the property levy under the Equalization of Burdens:

(a) natural persons who were nationals of any of the United Nations on the currency reform date (21 June 1948), and companies, associations of persons and trusts (Koerperschaften, Personenvereinigungen und Vermoegensmassen), which are independently liable for taxation under German law, organized under the laws of one of the United Nations, shall, if subject to unlimited tax liability, be exempted in respect of all property owned by them both on 21 June 1948 and on 8 May 1945 or, if subject to limited tax liability, in respect of all property owned by them in the Federal Republic or Berlin (West). Citizens of any territorial entity or nation referred to in sub-paragraph (c) of Article 1 of Allied High Commission Law No. 54[1] shall enjoy the same exemption if they had the nationality of any of the United Nations at any time between 1 September 1939 and 21 June 1948;

(b) companies organized under German law, which are independently liable for taxation, in which the natural persons or companies, associations of persons or trusts described in sub-paragraph (a) of this paragraph owned on 21 June 1948 and on 8 May 1945, directly or through the medium of other companies, a shareholding interest of at least 85 per cent shall be exempted in proportion to such shareholding interest;

(c) natural persons who do not qualify for exemption under sub-paragraph (a) of this paragraph and who claim or have claimed restitution or compensation pursuant to the legislation referred to in sub-paragraph (a) of paragraph 1 of Article 1 of Chapter Three of the present Convention shall be exempted on the first DM150,000 in value or amount of property of any kind which has been or will be transferred to them under orders, decisions or recorded agreements pursuant to such legislation which would be taxable under the provisions concerning Immediate Aid levies or the property levy under the Equalization of Burdens;

(d) the exemptions prescribed in sub-paragraphs (a) to (c) inclusive of this paragraph shall not become inoperative on the ground that the property concerned has devolved upon other persons on or after 21 June 1948.

3. For the purposes of sub-paragraph (a) of paragraph 2 of this Article, property which the owner on 21 June 1948 did not own on 8 May 1945 shall be deemed to have been owned by him on 8 May 1945 if

(a) the property was owned on 8 May 1945 by a person (of any nationality), from whom he acquired it through succession on death (by one or a series of inheritances or testamentary dispositions); or

(b) he acquired the property after 8 May 1945 in exchange for purchase); or

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[1] *Official Gazette of the Allied High Commission for Germany*, p. 915.

(c) the property concerned is restituted property of any kind, without limitation as to the value or amount, referred to in sub-paragraph (c) of paragraph 2 of this Article.

4. For the purposes of sub-paragraph (b) of paragraph 2 of this Article, the provisions of paragraph 3 of this Article shall be applicable *mutatis mutandis*.

5. Where payments made under the provisions of the Immediate Aid by natural persons, companies, associations of persons and trusts entitled to exemption under paragraph 2 of this Article exceed amounts of the property levy falling due for the same period taking into account the provisions of paragraph 2, the overpayment shall, not later than three months after the effective date of the notice of assessment issued by the German tax office concerning the property levy, be either refunded or set off against liabilities due for payment or which become due within three months thereafter.

6. In cases in which natural persons, companies, associations of persons or trusts enjoy exemption from the property levy by virtue of this Article, the annual amount to be paid in respect of the property levy for the period after the expiration of the exemption period shall not, either because of this exemption or because of the non-payment of the property levy or the Immediate Aid levy, be higher than the annual amount which would be payable by non-exempted natural persons, companies, associations of persons or trusts who have paid the Immediate Aid levy in full. If in computing the property levy the Immediate Aid levy is to be set off in the manner proposed in the draft law submitted to the Bundestag (Bundestag Document No. 3300), that is, by deduction of the Immediate Aid levy from the total liability for the property levy, then in cases where the Immediate Aid levy has not been imposed, three times the basic annual payment under the property levy is to be deducted from the total liability; the basic annual payment shall for this purpose be the amount resulting from the application of the annual contribution rates to the total liability.

7. In computing the liability for the purposes of any other levy under the Equalization of Burdens Law, natural persons, companies, associations of persons and trusts enjoying the exemptions under this Article shall be treated as though they had paid the full amount of property levy.

8. In cases under sub-paragraph (b) of paragraph 2 of this Article both the company, and any shareholder who believes the company should be exempted with respect to his participation, shall be entitled to all legal remedies available.

ARTICLE 7

In order to protect the interests of Foreign nationals, the following legislation shall be maintained in force:

(a) in the field of Monetary Reform legislation:

(i) [Deleted.]

Certain Financial Institutions under Currency Refor Legislatio and No. 65[2] (Third Amendment of Legislatio Concerning Monetary Reform) which supplement, amen and interpret the Conversion Laws;

(b) [Deleted.]

(c) in other fields:

(i) [Deleted.]

(ii) [Deleted.]

(iii) Allied High Commission Law No. 34[3] on Applicatio of Land Reform to the Property of Non-German Nationals as amended by Allied High Commission Laws Nos. 50, 60 64 and 72;[4] these laws shall, however, be deemed to be furthe amended as follows:

(1) the period of one year commencing on the date o acquisition provided for in paragraph 2 of Article 2 o Law No. 34 shall, in respect of an acquisition by inheritance or testamentary disposition, apply only to a acquisition which has taken place prior to 31 Decembe 1952;

(2) an owner of land, whose possession of non-Germa nationality was in dispute and who for this reason wa not in a position to dispose of his land prior to 29 February 1952 pursuant to paragraph 1 of Article 2 of Allie High Commission Law No. 34, may within a period o one year commencing on the date on which it was or wil be established that he did not possess German nationality, dispose of his land;

(3) owners of land who were of German as well as o non-German nationality shall within the meaning o these laws, be deemed to be non-German nationals, i at any time between 1 September 1939 and 8 May 194 their property was subject to any of the provisions o the German Ordinance on the Treatment of Enem Properties of 15 January 1940 or any amendmen thereto, or any other regulations having a similar purpose. In such case disposition of the land shall be permissible until 31 December 1952.

ARTICLE 8

1. Allied High Commission Law No. 8[5] on Industrial, Literary an Artistic Property Rights of Foreign Nations and Nationals, a amended by Allied High Commission Laws Nos. 30, 39, 41 and 66, together with the First and Second Implementing Ordinances unde

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[1] *Official Gazette of the Allied High Commission for Germany*, p. 967.

[2] *Ibid.*, p. 1284.

[3] *Ibid.*, p. 523.

[4] *Ibid.*, pp. 844, 1036, 1243, and 1492.

[5] *Ibid.*, p. 18.

in force.

2. However, the provisions of Allied High Commission Law No. 8, as amended, governing the settlement of disputes arising out of the application of that Law, shall be deemed to be amended as follows:

(a) An appeal may be taken to the Arbitral Commission on Property, Rights and Interests in Germany referred to in Article 12 of this Chapter from any decision of last instance of the Patent Office or of its Grand Senate or from any decision in the first instance of the regular courts, in accordance with the provisions of Article 12 of this Chapter and the Charter of the Arbitral Commission.

(b) The powers of the Occupation Authorities under the last sentence of Article 2 and paragraph 3 of Article 7 of Law No. 8 shall lapse.

ARTICLE 9

1. For the purposes of this Chapter, the term "United Nations" shall have the same meaning as in Allied High Commission Law No. 54, which is maintained in force for those purposes.

2. For the purposes of this Chapter, the term "United Nations nationals" shall, except as otherwise herein provided, mean:

(a) natural persons who are nationals of any of the United Nations. Natural persons who have the nationality of one of the United Nations and also German nationality shall be deemed to be exclusively nationals of the United Nations if, at any time between 1 September 1939 and 8 May 1945, their property in Germany was subject to any of the provisions of the German Ordinance on the Treatment of Enemy Properties of 15 January 1940 or any amendment thereto, or any other regulations having a similar purpose, unless it was exempted therefrom by specific permission of the Reich Minister of Justice;

(b) juristic persons or associations of persons established under the laws of one of the United Nations.

ARTICLE 10

If the Federal Republic concludes with any other Power, on matters within the scope of Articles 1 to 9 inclusive of this Chapter, arrangements more favourable to such other Power than the corresponding provisions of those Articles, the benefits of such new arrangements shall automatically be extended to all Powers benefiting from the corresponding provisions of those Articles.

ARTICLE 11

In the expectation that such a policy will be applied by such Nations toward the Federal Republic, the Federal Republic declares its intention to pursue a general policy of non-discrimination toward the United Nations and their nationals and toward the property, rights and interests of such Nations and nationals, and in general to accord national and most-favoured nation treatment in matters affecting such Nations and nationals and their property, rights and interests in the field of establishment and navigation. The Federal Republic further declares its readiness to enter into treaties with the United Nations based on these principles.

ARTICLE 12

1. The following decisions may be appealed to the Arbitral Commission on Property, Rights and Interests in Germany, referred to in Article 7 of Chapter Five of the present Convention, in accordance with the provisions of its Charter, upon application to the Commission by the party concerned within thirty days after the service thereof:

(a) decisions under Article 1 of this Chapter of the Federal Higher Authority referred to in the Annex thereto;

(b) decisions of an administrative court of first instance in regard to discriminatory treatment under Article 3;

(c) decisions of German courts of first instance (regular courts, administrative courts, finance courts or other courts) relating to the application of Articles 2, 4 and 5;

(d) decisions of the finance courts of first instance under Article 6;

(e) decisions of the regular courts of first instance in contentious or non-contentious matters under Article 7;

(f) decisions of the last instance of the German Patent Office or its Grand Senate under Allied High Commission Law No. 8 or decisions of the regular courts of first instance under that Law pursuant to Article 8.

Appeals under the last sentence of Article 2 and paragraph 3 of Article 7 of Allied High Commission Law No. 8, pending on the entry into force of the present Convention before the Patent Appeal Board established by Regulation No. 1 under Law No. 8 (amended), are hereby transferred to the Arbitral Commission and shall be dealt with by it in the same manner as appeals under this Article.

Appeal to the Arbitral Commission pursuant to sub-paragraphs (b) to (f) inclusive of this paragraph shall not bar the continuance of proceedings before the German courts and authorities on other issues in dispute. If, however, the Commission deems it necessary in order to protect the interests of a party to the proceeding it may order the stay of further proceedings before the German courts or authorities pending the Commission's decision on the question referred to it.

2. If the party affected by a decision referred to in sub-paragraphs (b) to (f) inclusive of paragraph 1 of this Article appeals from the decision to a German court instead of appealing to the Arbitral Commission, such party may not appeal thereafter to the Arbitral Com-

Commission.

3. The Commission shall also be authorized to render a decision in any case referred to in paragraph 1 of this Article where the appropriate German court or authority has not rendered a final decision within one year following submission to it and where the party concerned submits the matter for the decision of the Commission within thirty days after the expiration of that year.

4. In any case referred to in paragraphs 1, 2 or 3 of this Article, the Commission may render a final decision or may remand the case to the court or authority concerned, with such instructions as the Commission deems necessary or appropriate.

5. Decisions and instructions of the Commission shall be final and binding on all German courts and authorities.

ANNEX TO CHAPTER TEN

Section 1

1. The Federal Government shall establish a Federal Higher Authority (Bundesoberbehörde) to receive, to consider and to decide on applications for return and restoration under paragraph 2 of Article 1 of the foregoing Chapter. The Federal Government may issue regulations for carrying out the provisions of this Annex.

2. All German courts and authorities shall render the Federal Higher Authority legal and other official assistance pursuant to Article 35 of the Basic Law.[1]

Section 2

1. Applications for return or restoration shall be made in writing, or by oral statement to be recorded, to the Federal Higher Authority.

2. Application shall include

(a) first name, last name and address of the claimant and of his predecessor in title when applicable;

(b) description of the discriminatory measure and of the property, rights or interests affected by it;

(c) nationality of the claimant and of his predecessor in title, when applicable, at the time of the discriminatory measure.

3. Applications shall, if possible, include information concerning the person to whom the property, rights or interests were transferred, and concerning the person holding the property, rights or interests at the time of filing of the application.

4. Furthermore, all information and documents available to the claimant which refer to the property, rights or interests and to the discriminatory measure taken in respect of the property, rights or interests shall be attached to the application in the original or in a certified copy. On request, the original shall be submitted.

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[1] *Germany, 1947–1949: The Story in Documents* (Department of State publication 3556; 1950), p. 287.

Section 3

Proceedings before the Federal Higher Authority shall be free o charge, except where frivolous or obviously unfounded application are involved.

Section 4

1. The Federal Higher Authority shall on its own motion (von Amt wegen) conduct the necessary investigations. For this purpose i may take evidence, in particular hear witnesses, experts and the partie concerned or cause their hearing before a court. Where a hearin under oath appears necessary, such oath shall be sworn before a court The Federal Higher Authority shall be authorized to accept statement in lieu of oaths (eidesstattliche Versicherungen).

2. In addition to the claimants, all persons shall be considere parties concerned whose rights would be affected by the return o restoration.

3. The parties concerned shall be afforded an opportunity to stat their views. They may be represented by agents or counsel. The shall be notified of the dates of the hearings ordered for the purpos of interrogation, pursuant to the second sentence of paragraph 1 o this Section, and may attend these hearings. The documents file by a party concerned shall be transmitted to the other parties.

Section 5

Where realization of the return or restoration claim appears to b endangered, the Federal Higher Authority shall order the necessar interim measures to be taken for safeguarding the property, rights o interests.

Section 6

The Federal Higher Authority shall use its good offices to brin about an amicable settlement between the parties concerned. compromise reached by the parties shall be recorded.

Section 7

Decisions of the Federal Higher Authority shall state in writing th reasons upon which they are based and shall be served upon th parties concerned.

Section 8

1. The Federal Higher Authority shall take all measures require for the return and restoration or shall determine which measures shal be taken by the authority competent in the circumstances of the case

2. The Federal Higher Authority shall, in particular, be empowere to order, where necessary for the purpose of return or restoration expropriation in favour of the Federal Republic, which shall effec the return or restoration. The nature and amount of the compensation to persons affected by the expropriation shall be fixed by Federal law.

OF THE THREE POWERS IN THE FEDERAL REPUBLIC

[Deleted.]

CHAPTER TWELVE—CIVIL AVIATION

ARTICLE 1

The Federal Republic will assume full responsibility in the field of civil aviation in the Federal territory, subject to the provisions of Articles 2 to 6 inclusive of this Chapter and of any other agreement between the Three Powers and the Federal Republic which enters into force simultaneously with the present Convention.

ARTICLE 2

The Federal Republic undertakes to adhere to the Convention on International Civil Aviation drawn up in Chicago in 1944 [1] as soon as it is possible for it to do so in accordance with the terms of that Convention. Pending such adherence, the Federal Republic undertakes

(a) to apply and abide by the provisions of the Convention on International Civil Aviation and the International Air Services Transit Agreement of 1944,[2] with respect to any other State which has declared its willingness to extend reciprocal treatment to the Federal Republic and which maintains diplomatic relations with the Federal Republic. The Federal Republic will make known its position in this respect to the States concerned and will enter into appropriate arrangements necessary to put this undertaking into effect;

(b) to apply to the international civil aviation operations into and through the air space of the Federal Republic the fundamental principles of international air navigation and the standards, procedures and recommended practices as provided for by the Convention on International Civil Aviation of 1944;

(c) to accord to aircraft of foreign countries which may be granted rights to engage in air services or to operate in the air space of the Federal Republic, in the exercise of those rights, the same rights and privileges with respect to the use of air navigation and other facilities in the Federal Republic as are or would be accorded to civil aircraft of the Federal Republic in similar operations.

ARTICLE 3

The Federal Republic agrees to pursue, in its bilateral air transport agreements and arrangements, a liberal and nondiscriminatory policy.

ARTICLE 4

1. The Federal Republic will permit the air carriers of any State to continue their operations, including cabotage, in the Federal

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[1] TIAS 1591; 61 Stat. 1180.

[2] Executive Agreement Series 487; 59 Stat. 1693.

the entry into force of the present Convention. Such permission shall not be withdrawn for a period of one year from the entry into force of the present Convention or until the coming into effect of air transport agreements or other authorization agreed with such State, whichever is earlier, provided that, where negotiations for an air transport agreement or other authorization have been begun or proposed by either party within such period of one year, such permission shall not be withdrawn before agreement has been reached thereon or, in event of failure to reach agreement, until the expiry of one year from the date of the proposal by either party for negotiations.

2. With respect to cabotage, such privileges may nevertheless be withdrawn if and when a German airline provides service adequate to meet public needs over a route or routes now serviced through the cabotage privileges of a foreign air carrier. Any change not involving withdrawal of cabotage privileges enjoyed on the entry into force of the present Convention shall be subject to the provisions of paragraph 1 of this Article and shall be made in accordance with the relevant principles and provisions of the Convention on International Civil Aviation.

3. The term "German airline" means an airline substantially owned and effectively controlled by German nationals or governmental authorities.

ARTICLE 5

1. In the exercise of their responsibilities with respect to Berlin the Three Powers will continue to regulate all air traffic to and from the Berlin air corridors established by the Allied Control Authority. The Federal Republic undertakes to facilitate and assist such traffic in every way on a basis no less favourable than that enjoyed on the entry into force of the present Convention; it undertakes to facilitate and assist unlimited and unimpeded passage through its air space for aircraft of the Three Powers en route to and from Berlin. The Federal Republic agrees to permit any necessary technical stops by such aircraft and further agrees that such aircraft may carry passengers, cargo and mail between places outside the Federal Republic and Berlin and between the Federal Republic and Berlin.

2. Nothing in this Article shall confer or affect any cabotage privileges within the Federal territory.

ARTICLE 6

In the exercise of their responsibilities relating to Germany as a whole, the Three Powers will continue to exercise control with respect to aircraft of the Union of Soviet Socialist Republics utilizing the air space of the Federal Republic.

In Faith Whereof the undersigned representatives duly authorized thereto by their respective Governments have signed the present Convention, being one of the related Conventions listed in Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.

in the English, French and German languages, all being equally authentic.

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ANNEX

CHARTER OF THE ARBITRAL COMMISSION ON PROPERTY, RIGHTS AND INTERESTS IN GERMANY

PART 1—DURATION, SEAT, COMPOSITION AND ORGANIZATION

ARTICLE 1

1. The Commission is established for a period of ten years to run from the entry into force of the present Charter.

2. This period may be curtailed or extended by agreement between the Governments of the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic (hereinafter referred to as "the Three Powers") and of the Federal Republic of Germany (all collectively hereinafter referred to as "the Signatory States").

3. After the date of expiration of this period, the Commission will continue to function to complete the determination of any cases pending before it at that date.

ARTICLE 2

The seat of the Commission shall be at the seat of the Arbitration Tribunal referred to in Article 9 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.[1] The Commission may, however, sit and exercise its functions elsewhere when it deems it desirable to do so.

ARTICLE 3

1. The Commission shall be composed of nine permanent members who shall have the qualifications required in their respective countries for appointment to judicial office or equivalent qualifications.

2. The nine permanent members of the Commission shall be appointed as follows:

(a) three members appointed by the Governments of the Three Powers, one by each Government;

(b) three members appointed by the Federal Government; and

(c) three members (hereinafter referred to as "the neutral members") appointed by agreement between the Governments of the Three Powers and the Federal Government, none of whom shall be a national of any State which participated in the War.

3. The Governments of the Three Powers and the Federal Government shall make known their first appointments not later than thirty

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[1] Supra, pp. 489–490.

same period, the Governments of the Three Powers and the Federal Government shall agree upon the three neutral members. If, after the expiry of such period, one or more of the neutral members shall not have been appointed, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to appoint such neutral member or members.

4. Appointments to fill vacancies shall be made in the same manner as the appointment of the permanent member to be replaced. However, if a vacancy to be filled by the Government of one of the Three Powers or the Federal Government is not so filled within one month of its occurring, either the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make an interim appointment to the vacancy of a person who shall not be a national of any State which participated in the War and who shall serve for a period of six months or until the vacancy is filled in the normal manner, whichever is longer. If the member to be replaced is a neutral member, the Governments of the Three Powers or the Federal Government may request the President of the International Court of Justice to make such appointment, if the agreement envisaged by sub-paragraph (c) of paragraph 2 of this Article has not been reached within one month of the vacancy occurring.

5. The Commission may, by majority vote, declare a vacancy if, in its opinion, a member has, without reasonable excuse, failed or refused to participate in the hearing or decision of a case to which he has been assigned.

6. The Government of any State which has acceded to the present Charter pursuant to Article 17 hereof may appoint a member adjoint by notification addressed to the Governments of the Three Powers and the Federal Government. Any such member adjoint shall meet the requirements specified in paragraph 1 and shall be subject to the provisions of paragraph 5 of this Article. The appointing Government may fill a vacancy by notification addressed to the Governments of the Three Powers and the Federal Government.

7. The Secretariat of the Arbitration Tribunal[1] shall serve the Commission as its administrative office.

ARTICLE 4

1. The permanent members shall be appointed for the duration of the Commission including the additional period provided for in paragraph 3 of Article 1 of the present Charter. Members adjoint may be appointed for shorter periods or for particular cases.

2. Members of the Commission shall not engage in any activity incompatible with the proper exercise of their duties, nor shall they participate in the adjudication of any case with which they have previously been concerned in another capacity or in which they have

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[1] See art. 6 of the charter of the Arbitral Tribunal, *supra*, p. 493.

3. (a) During and after their terms of office, the members of the Commission shall enjoy immunity from suit in respect of acts performed in the exercise of their official duties.

(b) The members of the Commission who are not of German nationality shall, moreover, enjoy in the Federal territory the same privileges and immunities as are accorded members of diplomatic missions. If sittings or official acts take place in the territory of one of the Three Powers, the members of the Commission who are not of the nationality of the country in which the sitting or act takes place shall enjoy diplomatic privileges and immunities in such country.

4. Every member of the Commission shall, before taking office, make a declaration at a public session that he will exercise his duties impartially and conscientiously.

5. Subject to the provisions of paragraph 5 of Article 3 of the present Charter, no member may be dismissed before the expiry of his term of office, except by agreement between the Governments of the Three Powers and the Federal Government and,

(a) in the case of a member appointed by the Government of an acceding State, with the agreement of such Government;

(b) in the case of a member appointed by the President of the International Court of Justice, with the consent of its President.

6. Any member may at any time resign his office by giving due notice thereof under his hand to the appointing Government or Governments and to the President of the Commission. But he shall continue in office until his successor has taken his seat, unless the appointing Government or Governments and the President agree otherwise.

ARTICLE 5

1. The Commission shall elect its President from the three neutral members to serve for two years. The President shall be eligible for re-election. If the President shall cease to be a member of the Commission, the Commission shall elect a new President after his successor as a member of the Commission has been appointed. The remaining neutral members shall serve as Vice-Presidents.

2. The Commission, presided over by the President or one of the Vice-Presidents, shall sit either in plenary session or in Chambers of three members.

3. A plenary session shall, in principle, include all the permanent members of the Commission. A quorum of five members shall suffice to constitute a plenary session; it shall be composed of an uneven number of members, and in any case shall consist of an equal number of the members appointed by the Governments of the Three Powers and of those appointed by the Federal Government, and at least one neutral member. Members adjoint shall not take any part in a plenary session.

4. (a) Chambers shall be composed of one of the members appointed by the Governments of the Three Powers, one of the

the members of such Chambers, define the categories of cases with which a Chamber will be concerned or assign a particular case to a Chamber. Subject to the provisions of paragraph 5 of Article 13 of the present Charter, any decision of a Chamber, on a case assigned to it, shall be deemed to be a final decision of the Commission.

(b) In cases heard by Chambers where any of the parties is one of the Three Powers or its national or resident, the member appointed by the Government of such Power shall sit unless such party otherwise agrees.

(c) In cases heard by Chambers, other than those referred to in sub-paragraph (b) of this paragraph,

(i) where any of the parties is one of the acceding States or its national or resident, the member appointed by the Government of one of the Three Powers shall be replaced by the member adjoint appointed by the Government of such acceding State upon the latter's application to the President;

(ii) where more than one of the parties are acceding States or nationals or residents of acceding States, such States, nationals or residents may agree to the replacement of the member appointed by the Government of one of the Three Powers by one of the members adjoint appointed by the Governments of the States which, or whose nationals or residents, are parties, and such replacement shall be made upon application of all the States, nationals or residents concerned. In default of such agreement, the member appointed by the Government of one of the Three Powers shall sit in the Chamber.

5. The Commission shall sit in public unless it decides otherwise. The deliberations of the Commission shall be and shall remain secret as shall all facts brought to its attention in closed session.

PART II—COMPETENCE, POWERS AND APPLICABLE LAW

ARTICLE 6

1. The Commission shall have jurisdiction in all disputes envisaged under Article 7 of Chapter Five and Article 12 of Chapter Ten of the Convention on the Settlement of Matters Arising out of the War and the Occupation (hereinafter referred to as "the Convention"). Subject to the provisions of paragraph 2 of Article 9 and of Article 10 of the Charter of the Arbitration Tribunal, the Commission may decide questions as to the extent of its jurisdiction. The President of the Commission may ask the Arbitration Tribunal for an advisory opinion, under Article 25 of its Charter, as to the extent of the jurisdiction of the Commission.

2. The jurisdiction, in the first instance or on appeal, as the case may be, of the Commission in disputes within its competence which are submitted to it shall be exclusive and no court or tribunal of the

3. The Commission shall also have jurisdiction in any other matter which may be referred to it from time to time by agreement between the Signatory States. If any acceding State is directly concerned in the matter, the consent of its Government shall also be necessary.

4. Disputes within the jurisdiction of the Commission may be submitted by any of the Signatory States or any State which has acceded to the present Charter, by a national or resident of any such State or of any territorial entity which is administered or controlled by any such State or for whose international relations such State is responsible, or by a juristic person established under the laws of any such State or territorial entity.

5. The Commission shall be competent to decide questions of law and fact.

ARTICLE 7

1. The Commission or, in a case of urgency, the President shall have the power to issue such orders as may be necessary to conserve the respective rights of the parties pending the judgment of the Commission. Any orders issued by the President under this Article may be confirmed, amended or annulled by the Commission within seventy-two hours after the notification thereof to the parties.

2. Any party affected by such an order of the Commission or of the President who shall not have been heard prior to the making thereof may apply to the Commission for the amendment or annullment of the order at such time and in such manner as may be prescribed in the rules of procedure envisaged in Article 14 of the present Charter.

ARTICLE 8

In arriving at its decisions, the Commission shall apply the provisions of the Convention and of legislation made applicable thereby. Where necessary to supplement or interpret such provisions, or in the absence of any relevant provisions, it shall apply the general principles of international law and of justice and equity.

Part III—Procedure

ARTICLE 9

1. The official languages of the Commission shall be French, English and German. However, the President may, with the consent of the parties, direct that only one or two of these languages shall be used in the proceedings in any cause.

2. Decisions of the Commission shall be delivered in all three languages.

ARTICLE 10

Proceedings before the Commission shall be instituted by a written complaint which shall contain a statement of the facts giving rise to the dispute and the arguments put forward by the complainant.

Unless the Commission decides otherwise, an answer to the complain shall be filed within one month of the service of the complaint Further pleadings, if any, shall be filed as the Commission ma direct.

ARTICLE 11

1. States as parties to the proceedings before the Commission shal be represented by agents. They may be assisted by counsel.

2. Natural persons may appear before the Commission either i erson or by counsel, and juristic persons either by authorize epresentatives or by counsel.

3. Any government agent shall be authorized to present orally an n writing arguments and submissions in cases to which a national o resident of his State is a party.

4. The Commission may prescribe the qualifications which counse must possess in order to be admitted.

5. The agents, counsel and representatives referred to in thi Article shall enjoy immunity from suit in respect of acts performe in the exercise of their duties. Any natural persons appearing i person shall enjoy the same immunity.

ARTICLE 12

The Commission shall have power to demand the production o evidence, documentary or other, to require the attendance of witnesse o testify, to request expert opinion, and to direct inquiries to b made. To this end the Commission may request the aid of the court of any Signatory or acceding State.

ARTICLE 13

1. All decisions of the Commission shall be in the form of judgments or orders and shall be by majority vote of the members takin part.

2. Subject only to this Article and to paragraph 2 of Article 9 an Article 10 of the Charter of the Arbitration Tribunal, all final judgments and orders of the Commission shall be binding on all partie and shall not be subject to appeal.

3. All judgments shall be delivered in writing and in open court They shall include a statement of the facts and the reasons on whicl they are based.

4. Final decisions of the Commission in plenary session shall no be subject to appeal. The final decision on a case assigned to Chamber must be taken by the Arbitral Commission in plenary session if the Chamber, before it has pronounced a final decision, decide

from any order made by a member of the Commission sitting singly, within thirty days after service of such order upon the party concerned.

7. The revision of a final decision may not be requested of the Commission except upon the grounds of the discovery of a fact which is of such a nature as to exercise a decisive influence, and of which the Commission and the party requesting revision had been unaware before the pronouncement of the decision. The Commission sitting in plenary session shall decide whether such a revision is warranted.

ARTICLE 14

1. The proceedings shall consist of two parts: written and oral. Oral proceedings may be dispensed with if both parties so request.

2. The Commission shall determine rules of procedure consistent with the present Charter. These rules may provide for the rendering of judgments on default if a party fails to appear or to file pleadings. They may also provide for the assignment to any member of the Commission of special duties.

ARTICLE 15

1. The Commission may adopt rules of assessment for court costs, including rules enabling persons to sue or be sued *in forma pauperis*.

2. In general, each party to a proceeding shall pay its own costs. However, the Commission may make an order as to the costs of parties in exceptional cases, recording its reasons as a part of the judgment, where the proceedings have been found to be malicious or vexatious.

PART IV—ADMINISTRATION AND EXPENSES

ARTICLE 16

1. Each of the Signatory States and any State acceding to the present Charter shall bear the full charge by way of salary and allowances of each of the members of the Commission appointed by itself.

2. The operating costs of the Commission (including the salaries and allowances of the neutral members) shall be borne equally by the Three Powers, on the one hand, and the Federal Republic, on the other.

3. The administration of the Commission, the accommodations of the Commission, its members and its staff, the salaries and allowances of the neutral members, staff appointments and staff salaries shall be regulated by a subsidiary administrative agreement between the Signatory States.

PART V—FINAL CLAUSES

ARTICLE 17

1. The present Charter shall enter into force on the entry into force of the Convention.

2. Any State may accede to the present Charter by written notif

channels and by the deposit with the Federal Government of an instrument of accession to the present Charter.[1] The present Charte shall be binding on each acceding State as of the date of deposit o its instrument of accession.

3. Any State which accedes to the present Charter shall be deeme to become thereby a principal party to the agreement between the Signatory States contained in Chapter Five and Chapter Ten of the Convention.

4. Any State acceding to the present Charter agrees to be boun by decisions of the Arbitration Tribunal pursuant to paragraph 2 o Article 9 of its Charter concerning the extent of the jurisdiction o the Commission.

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18. AGREEMENT ON THE TAX TREATMENT OF THE FORCES AND THEIR MEMBERS, MAY 26, 1952, AS AMENDED BY SCHEDULE V TO THE PROTOCOL ON THE TERMINATION OF THE OCCUPATION REGIME IN THE FEDERAL REPUBLIC OF GERMANY, OCTOBER 23, 1954[2]

The United States of America,
The United Kingdom of Great Britain and Northern Irelan
The French Republic,
and
The Federal Republic of Germany
Agree as follows:

ARTICLE 1—TAX TREATMENT OF THE FORCES

1. The forces (which expression in this Agreement shall have the meaning given in paragraph 5 of Article 1 of the Convention on the Rights and Obligations of Foreign Forces and their Members in the Federal Republic of Germany,[3] hereinafter referred to as the "Forces Convention") shall be exempt from taxes which are levied in accordance with German taxation legislation in effect on the entry into force of the present Agreement, except as otherwise provided in the present Agreement.

2. Customs duties and other taxes on imports and exports of the Forces are dealt with in Article 34 of the Forces Convention; excise taxes on the purchase by the Forces of goods in the Federal Republic are dealt with in paragraph 1 and turnover tax on deliveries to, and services for, the Forces in paragraph 2 of Article 33 of that Convention

3. Tax exemption in accordance with paragraph 1 of this Article hall not apply, to the extent that taxes are due as a result of com-

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[1] As of Dec. 31, 1955, there had been no accessions to this convention.

[2] *The Bonn Agreements of 1952 as Amended by the Paris Protocol of 1954* (S. Doc No. 11, 84th Cong., 1st sess.), pp. 125–127. For the 1952 text of this agreement see S. Execs. Q and R, 82d Cong., 2d sess., pp. 131–133.

[3] *Supra*, pp. 498–538.

used for this purpose, nor shall it apply to the excise tax on goods manufactured by the Forces in Germany, to the tax on Bills o Exchange, or to the Transportation Tax.

4. The liability of the Forces to German taxes on the acquisition anc ownership of real property shall be dealt with in a special agreement in the event that the Forces in the future acquire real property.

5. The treatment of the Forces in respect of taxes which may be introduced after the entry into force of the present Agreement shal be the subject of special agreements.

ARTICLE 2—TAX TREATMENT OF MEMBERS OF THE FORCES

1. Subject to the provisions of this or any other applicable agreement between the Signatory States, "members of the Forces" (whicl expression in this Agreement shall have the meaning given in paragraph 7 of Article 1 of the Forces Convention) shall be liable t taxes levied in accordance with existing German taxation legislatio provided, however, that this provision shall not deprive a member o the Forces of any benefits which exists [exist] by reason of an intergovernmental agreement with the Federal Republic and which h could otherwise claim.

2. If, after the entry into force of the present Agreement, any lav is enacted in the Federal Republic concerning new direct taxes, o levies which have the effect of direct taxes, its application to member of the Forces shall be the subject of a special agreement between th Signatory States, which shall be concluded without delay.

3. For the basis of tax liability under German law

(a) a person shall not be deemed to have acquired residence o domicile in the Federal territory by reason of his presence as member of the Forces therein. This shall not apply in respect o the insurance tax, insofar as concerns the payment of an insuranc premium to an insurer who has his normal place of business i the Federal territory. Further, the fact that no residence i established in the Federal territory shall not mean that member of the Forces are to be regarded as foreign purchasers for th purpose of the turnover tax legislation;

(b) movable property, whatever its origin, situated in the Federal territory by reason of the presence of its owner as a membe of the Forces, and intended for his personal or domestic use, shal be deemed not to be situated in the Federal territory. In th case of motor vehicles, this provision shall apply only when the bear registration plates, issued by the Forces.

4. Additionally to the exemption from taxation conferred by paragraph 3 of this Article, members of the Forces shall be exempt fron all German taxes and levies on payments which they receive as remuneration for their official activities with the Forces in the Federa territory. Further, they shall enjoy the taxation benefits which ar granted by German taxation legislation to military personnel.

1. Beer which is procured by the Forces directly from a German manufacturer shall be exempt from excise tax. The exemption from taxation shall apply only to purchases by the official procurement agencies of the Forces for consumption by the Forces or their members

2. Beer which the Forces or their members bring into the Federal territory under the provisions of Articles 34 and 35 of the Forces Convention shall be exempt from excise tax.

3. Whenever the Forces procure beer, they shall certify that the beer, which is to be described exactly as to type and quantity, is intended exclusively for consumption by the Forces or their members

ARTICLE 4—TAX TREATMENT OF ORGANIZATIONS AND ENTERPRISES SERVING THE FORCES

1. Except as may otherwise be provided in special agreements etween the Signatory States, the tax exemptions contained in Articles 1 and 2 of the present Agreement shall apply to the organizations and enterprises, and their employees, referred to in Article 36 f the Forces Convention; provided, however, that they shall apply to the enterprises referred to in sub-paragraph (b) of paragraph 2 of that Article with the following exceptions:

(a) taxation of their employees;
(b) taxation on their income and profits;
(c) taxation on their business property in the Federal territory

2. The tax exemption contained in Article 3 of the present Agreement shall apply only to those organizations referred to in paragraph 1 of Article 36 of the Forces Convention whose service to the Forces includes the sale of beer to the members of the Forces.

ARTICLE 5—JURISDICTION OF ARBITRATION TRIBUNAL

All disputes arising between the Three Powers and the Federal Republic under the provisions of the present Agreement, which the parties are not able to settle by negotiations or by other means agreed between all the Signatory States, shall be subject to the jurisdiction of the Arbitration Tribunal established by Article 9 of the Convention on Relations between the Three Powers and the Federal Republic o Germany signed at Bonn on 26 May 1952,[1] in the same manner and with the same effect as though the present Agreement were listed in paragraph 1 of Article 8 of that Convention as a related Convention.

ARTICLE 6—FINAL PROVISIONS

1. [Deleted.]
2. [Deleted.]
3. [Deleted.]
4. The present Agreement shall be deposited in the archives of the Government of the Federal Republic of Germany, which will furnish

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[1] *Supra*, pp. 489–490.

[2] Art. 5 has been inserted by a protocol, signed on July 26, 1952. [Footnote in original.]

each Signatory State with certified copies thereof and n
State of the date of the entry into force of the present Agre

IN FAITH WHEREOF the undersigned representatives duly a
thereto by their respective Governments have signed th
Agreement.

Done at BONN this twenty-sixth day of May, 1952, in th
in the English, French and German languages, all bein
authentic.

. . . . . .

19. CONVENTION ON THE PRESENCE OF FOREIGN IN THE FEDERAL REPUBLIC OF GERMANY, OCT 1954 [1]

In view of the present international situation and the
ensure the defence of the free world which require the c
presence of foreign forces in the Federal Republic of Ger
United States of America, the United Kingdom of Great B
Northern Ireland, the French Republic and the Federal R
Germany agree as follows:

ARTICLE 1

1. From the entry into force of the arrangements for th
Defence Contribution,[2] forces of the same nationality and
strength as at that time may be stationed in the Federal R

2. The effective strength of the forces stationed in th
Republic pursuant to paragraph 1 of this Article may at an
increased with the consent of the Government of the Federal
of Germany.

3. Additional forces of the States parties to the present C
may enter and remain in the Federal territory with the c
the Government of the Federal Republic of Germany fo
purposes in accordance with the procedures applicable to
signed to the Supreme Allied Commander, Europe, provided
forces do not remain there for more than thirty days at any

4. The Federal Republic grants to the French, the United
and the United States forces the right to enter, pass thr
depart from the territory of the Federal Republic in tra
from Austria (so long as their forces continue to be statio
or any country Member of the North Atlantic Treaty Org

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[1] S. Execs. L and M, 83d Cong., 2d sess., pp. 89–90. Approved b
dent Apr. 7, 1955; entered into force May 6, 1955.

[2] See the Protocols of Oct 23, 1954, to the North Atlantic Treaty an
sels Treaty; *infra*, pp. 871–873 and 972–989. See also the Final
London Conference, Oct. 3, 1954, *infra*, pp. 1474–1491.

on the same basis as is usual between Parties to the North Atlantic Treaty or as may be agreed with effect for all Member States by the North Atlantic Council.

ARTICLE 2

The present Convention shall be open to accession by any State not a Signatory, which had forces stationed in the Federal territory on the date of the signature of the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany signed at Paris on 23 October 1954.[1] Any such State, desiring to accede to the present Convention, may deposit with the Government of the Federal Republic an Instrument of Accession.[2]

ARTICLE 3

1. The present Convention shall expire with the conclusion of a German peace settlement or if at an earlier time the Signatory States agree that the development of the international situation justifies new arrangements.

2. The Signatory States will review the terms of the present Convention at the same time and subject to the same conditions as provided for in Article 10 of the Convention on Relations between the Three Powers and the Federal Republic of Germany.[3]

ARTICLE 4

1. The present Convention shall be ratified or approved by the Signatory States and Instruments of Ratification or Approval shall be deposited by them with the Government of the Federal Republic of Germany which shall notify each Signatory State of the deposit of each Instrument of Ratification or Approval. The present Convention shall enter into force when all the Signatory States have made such deposit and the Instrument of Accession of the Federal Republic of Germany to the North Atlantic Treaty has been deposited with the Government of the United States of America.

2. It shall also enter into force on that date as to any acceding State which has previously deposited an Instrument of Accession in accordance with Article 2 of the present Convention and, as to any other acceding State, on the date of the deposit by it of such an Instrument.

3. The present Convention shall be deposited in the Archives of the Government of the Federal Republic of Germany, which will furnish each State party to the present Convention with certified copies thereof and of the Instruments of Accession deposited in accordance with

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[1] *Supra*, pp. 483–485.

[2] As of Dec. 31, 1955, the following states had deposited, on the dates indicated, their instruments of accession to this convention: Belgium, Apr. 22, 1955; the Netherlands, Apr. 30, 1955; Canada, May 3, 1955; Denmark and Luxembourg, May 4, 1955.

[3] *Supra*, p. 490.

rticle 2 and will notify each State of the date of the deposit of any strument of Accession.

IN FAITH WHEREOF the undersigned Representatives duly authorized ereto have signed the present Convention.

Done at Paris this 23rd day of October, 1954, in three texts, in the glish, French and German languages, all being equally authentic.

. . . .

TRIPARTITE AGREEMENT ON THE EXERCISE OF RETAINED RIGHTS IN THE FEDERAL REPUBLIC OF GERMANY, OCTOBER 23, 1954[1]

The Governments of the United States of America, the United gdom of Great Britain and Northern Ireland and the French public agree as follows:

1. The rights retained by the United States of America, the United Kingdom of Great Britain and Northern Ireland and the French Republic after the entry into force of the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany,[2] which are referred to in the Convention on Relations between the Three Powers and the Federal Republic of Germany[3] as amended by the said Protocol, will be exercised by their respective Chiefs of Mission accredited to the Federal Republic of Germany.

2. The Chiefs of Mission will act jointly in the exercise of those rights in the Federal Republic of Germany in matters the Three Powers consider of common concern under the said Protocol and the instruments mentioned in Article 1 thereof.

3. Those rights which relate to Berlin will continue to be exercised in Berlin pursuant to existing procedures, subject to any future modification which may be agreed.

4. This agreement shall enter into force upon the entry into force of the said Protocol.

ne at Paris on the twenty third day of October, Nineteen hun- and fifty-four in two texts, in the English and French languages, texts being equally authentic.

. . . .

Execs. L and M, 83d Cong., 2d sess., p. 91. Entered into force May 5,

pra, pp. 483–485.

pra, pp. 486–498.

[AGREEMENT ON THE SAAR BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND FRANCE WITH ACCOMPANYING LETTERS, OCTOBER 23, 1954][1]

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21. REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, NOVEMBER 12, 1954[2]

DEAR MR. PRESIDENT:

I

I have the honor to submit to you, with a view to transmission t the Senate for its advice and consent to the ratification thereof, (1) Protocol on the Termination of the Occupation Regime in the Federa Republic of Germany, signed at Paris on October 23, 1954,[3] to whic are annexed five schedules; and (2) a Protocol to the North Atlanti Treaty providing for the Accession of the Federal Republic of Germany, signed at Paris on October 23, 1954.[4]

II

The protocols above referred to are a part of a series of interconnecting arrangements designed to solidify the security structur of Western Europe. Because of such interdependence, I also submi herewith the other arrangements, although they do not themselve require Senate action. I recommend that these documents, whic are listed in the annexed schedule,[5] be submitted to the Senate for it information.

III

The foregoing arrangements, when they become operative, will, i combination, establish basically new conditions in Western Europe They will realize a result for which the United States has long hoped

The two world wars of this century have made it evident that western civilization, with its dedication to human liberty, cannot surviv if the members of the western world continue to make war on eac other. Already they have so expended their blood and treasure i fighting that they have gravely depleted their strength, and they have brought upon themselves the moral condemnation of all humanity because of their failure to establish, even as between themselves, a peaceful order.

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[1] *The Bonn Agreements of 1952 as Amended by the Paris Protocol of 1954* (S Doc. No. 11, 84th Cong., 1st sess.), pp. 140–144; Beate Ruhm von Oppen, ed., *Documents on Germany under Occupation, 1945–1954* (London, 1955), pp. 609–612 The agreement came into force on May 5, 1955, by an exchange of notes, subjec to approval by referendum (article I). The rejection of the agreement by th Saarlanders in the referendum of Oct. 23, 1955, necessitated new negotiation that had not materialized in any new arrangement by the end of 1955.

[2] S. Execs. L and M, 83d Cong., 2d sess., pp. 5–14.

[3] *Supra*, pp. 483–485.

[4] *Infra*, pp. 871–873.

[5] Not reprinted here.

Realization of the foregoing brought the Western European nations to seek such a measure of unification, particularly in terms of military establishments, as would make it hereafter both militarily impractical and politically unlikely that their military forces would be used against each other, or indeed against anyone else for other than clearly defensive purposes.

The need for this coincides with new dangers born out of the expansionist policies of Soviet Russia, inspired by the worldwide ambitions of Soviet communism and backed by a vast Red military establishment. This creates for Western Europe a threat which can only be effectively deterred by the achievement of a large degree of practical unity among the European nations themselves, including the Federal Republic of Germany, and we hope, a unified Germany.

It was originally sought to achieve these objectives by the establishment of a European Defense Community, consisting of six continental countries—Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands. They would have created an international organization having supranational powers in defense matters. This would have constituted a hard and dependable core at the critical center of the North Atlantic Treaty Organization.

This plan had been proposed on October 24, 1950, by Mr. Pleven, the then French Minister of Defense. After about a year and a half of negotiation, it was embodied in two interconnected treaties—the Bonn Convention on Relations with the Federal Republic of Germany of May 26, 1952,[1] designed to restore sovereignty to the Federal Republic, and the Paris Treaty of May 27, 1952, designed to establish the European Defense Community.[2]

The Bonn convention was signed by the United States, and on July 1, 1952, the United States Senate advised and consented to its ratification. The Senate at the same time consented to an extension of the North Atlantic Treaty area to include that of the European Defense Community, the significant addition being Western Germany.[3] However, the Bonn convention and the related Paris Treaty never became effective because they were not ratified by all the signatories.

This failure to realize the European Defense Community and to restore sovereignty to the Federal Republic of Germany created a highly dangerous situation. It seemed that Europe might be doomed to continue divisions which would be disastrous both because such divisions would perpetuate the cycle of recurrent war as between the Western European countries themselves, and because a divided Europe would automatically be dominated by Soviet despotic power.

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[1] Text in S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

[2] *Infra*, pp. 1107–1150.

[3] See Protocol of May 27, 1952, S. Execs. Q and R, 82d Cong., 2d sess., pp. 23–24.

I desire at this point to refer to the action which the United States Senate took on July 30, 1954.[1] It was then predictable that the French Chamber of Deputies might fail to ratify the Bonn and Paris Treaties above referred to, and the consequences of that failure could measurably be foreseen. In anticipation of that situation there occurred consultations between the Executive and the Senate, as a result of which the Senate, by a vote of 88 to 0, adopted a resolution which asked you in your discretion and within the limits of your constitutional powers to seek—

> to restore sovereignty to Germany and to enable her to contribute to the maintenance of international peace and security.

This act of cooperation between the Executive and the Senate and the unanimous bipartisan action of the Senate itself, had a steadying and sobering effect at a time when there was much confusion and division of counsel. The Senate action enabled me, as your representative, to speak with authority in the subsequent negotiations which I conducted on your behalf.

The forward-looking "advice" thus given by the Senate in pursuance of its constitutional prerogative has in fact been successfully transmuted into Executive action. The first protocol referred to in I above will "restore sovereignty to Germany" and the second protocol referred to in I above will "enable her to contribute to the maintenance of international peace and security."

V

The Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany is not linked to the entry into force of the arrangements for a German defense contribution, as was the case of the original Convention on Relations with the Federal Republic It could come into force before it becomes possible to bring the arrangements for the German defense contribution into force. If there is an intervening period, France, the United Kingdom, and the United States will retain their existing powers in the field of disarmament and demilitarization in the Federal Republic. These powers will be exercised through a Joint Commission, consisting of representatives of the three powers and the Federal Republic, who will function by majority votes. These arrangements will be reviewed at the end of 1954 in light of the situation then existing with regard to the entry into force of the protocol and, at the same time, the four Governments will review the exercise of the controls with a view to permitting preparation by the Federal Republic for its future defense contribution.

In addition to the differences above mentioned, several changes of substance have been made in the Convention on Relations with the Federal Republic, as concluded in 1952. However, these changes neither increase the obligations of nor diminish the benefits to the was approved by the Senate on July 1, 1952. The changes, which are significant primarily from the standpoint of the Federal Republic of Germany, may be summarized as follows:

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[1] S. Res. 295; *infra*, p. 1733

(1) In article 2 of the convention as originally concluded, the three powers retained their rights relating to the stationing of armed forces in Germany and the protection of their security, to Berlin, and to Germany as a whole, including the unification of Germany and a peace settlement. These powers were to be held in reserve for special use, related to the Soviet position in Eastern Germany, and were not intended for exercise in ordinary German affairs, either domestic or foreign. It seemed preferable, therefore, that insofar as the territory of the Federal Republic was concerned, the arrangements for the stationing of foreign forces should be put on a contractual basis. Accordingly, the forces in the Federal Republic after the entry into force of the arrangements for the German defense contribution will be governed by a separate convention under the terms of which the Federal Republic agrees to the stationing of forces of the same nationality and effective strength as may be stationed in the Federal Republic at that time.[1] Any increase in the effective strength of these forces may be made only with the consent of the Government of the Federal Republic.

The German representatives recognized that the three powers should preserve their rights to protect the security of forces stationed in the Federal Republic until the Federal Government itself were able to take the necessary measures. This depends on the Federal Government obtaining new legislative powers. The termination of the general right of the three powers in this field will not affect the right of a military commander, if his forces are imminently menaced, to take such immediate action (including the use of armed force) as may be appropriate for their protection and as is requisite to remove the danger.

(2) A second change in the Convention on Relations relates to the Arbitration Tribunal[2] to be established for the settlement of disputes arising between any one of the three powers and the Federal Government. Under the Charter of the Arbitration Tribunal as originally concluded, the Tribunal was given power to take action directly on legislative and administrative measures or judicial decisions applicable within the Federal Republic. These powers, which are not normal to a body created to arbitrate disputes between sovereign states, have been eliminated from the charter.

(3) A third change in the Convention on Relations relates to the situation which will arise on the reunification of Germany. The Convention on Relations as concluded in 1952 provided for its review in the event of reunification (art. 10). The new protocol provides for review of the convention and the related conventions not only in the event of actual reunification of Germany, but also in case an inter-

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[1] *Supra*, pp. 610–612.

[2] The charter of the Arbitration Tribunal is printed as annex B to the Con-

of the four Governments parties to the conventions on steps towar bringing about the reunification of Germany. The Convention o the Presence of Foreign Forces in Germany[1] will also be subject t review in these circumstances. There must, of course, be agreemen by all the signatory governments to any changes made in the conventions.

(4) Changes have also been made in the related conventions. These changes for the most part involve bringing the convention up to date by eliminating clauses referring to the EDC Treaty, b taking into account the lapse of time since the conventions were concluded, and by taking into account progress made toward the completion of certain Allied programs in Germany. They also alter certai clauses in the conventions which were not felt to be in harmony wit the status of equality being accorded the Federal Republic. Finally the arrangements for the financial support of foreign forces statione in Germany[3] have been brought into harmony with more recen agreements with the Federal Republic in this field.

The related conventions were executive agreements implementin the Convention on Relations. For these, Senate action was unnecessary and, furthermore, recognized by the Committee on Foreig Relations to be undesirable, inasmuch as it was foreseen that the might require technical revision from time to time to meet changin conditions. The report of the Committee on Foreign Relations of th Senate (Ex. Rept. No. 16, 82d Cong., 2d sess.), stated:

> Some of the technical provisions in the [related] conventions are temporary i nature and as the situation in Germany changes, it may be necessary to mak modifications in them from time to time. Under such circumstances it woul seem impractical to require resubmission of the conventions to the Senate before each such modification could go into effect.

The ratification of the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany will not change th nature of those related conventions.

VI

The arrangements for the termination of the occupation regime i the Federal Republic do not affect the status of Berlin. In a declaration made by the Governments of the United States, the Unite Kingdom and France at the London Nine Power Conference of September 28–October 3, 1954,[4] they reaffirmed the declaration made b them in Paris on May 27, 1952,[5] that they would maintain arme forces in Berlin as long as their responsibilities required and that the would treat any attack against Berlin from any quarter as an attac upon their forces and themselves. In addition, the three powers issue determination to insure the greatest possible degree of self-government in Berlin compatible with Berlin's special situation and stated that they had instructed their representatives in Berlin to consult with the German authorities in the city with a view to implementing these principles jointly and to the fullest degree possible.

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[1] *Supra*, pp. 610–612.

[2] *Supra*, pp. 498–538, 557–610.

[3] *Supra*, pp. 539–556.

[4] The Declaration of Oct. 3, 1954, is included in the Final Act of the Londo Conference; *infra*, pp. 1481–1483.

VII

The Protocol to the North Atlantic Treaty Providing for the Accession of the Federal Republic of Germany, referred to in I above, has no precise counterpart in the documents which were submitted to the Senate in 1952, although, as mentioned, there was then a protocol, approved by the Senate, which extended the treaty area to include that of the EDC. It was, however, not then contemplated that the Federal Republic of Germany would itself become a party to the North Atlantic Treaty. The German defense contribution would have been made solely through the European Defense Community. Under the arrangements now contemplated, it is essential that the Federal Republic of Germany should become a party to the North Atlantic Treaty and participate in the North Atlantic Treaty Organization (NATO). A protocol to that effect was signed in Paris on October 23, 1954, by the representatives of the 14 nations now parties to that treaty, and is one of the two documents referred to in section I hereof which it is recommended should be submitted to the Senate for advice and consent to ratification. The protocol is framed so that its entry into force is tied to that of the other arrangements relating to German participation in the common defense.

VIII

One of the documents above referred to in section II hereof, is a resolution concerning the powers of the supreme allied commander, Europe (SACEUR) approved by the North Atlantic Council on October 22, 1954.[2] The general effect of this resolution is to strengthen the role of SACEUR over the forces under his authority. One result of these changes will be to enhance the effectiveness of the NATO forces in Europe, with consequent benefits to the entire NATO effort. Increasing the authority of SACEUR will also mean that the national forces assigned to SACEUR will become integrated and interdependent to an extent that will minimize the possibility of individual nations exercising an independent military initiative in Europe.

IX

Another of the resolutions of the North Atlantic Council suggested to be submitted to the Senate for its information is that of October 22, 1954,[3] which took note of an exchange of declarations between the

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[1] *Infra*, p. 1758.

[2] *Infra*, pp. 1493–1496.

[3] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 35–36.

States, the United Kingdom, and France on October 3, 1954, in London[1] and associated all members of the North Atlantic Treaty with the tripartite declaration issued by the three Governments last named

In its declaration, the Government of the Federal Republic declare that it has agreed to conduct its policy in accordance with the principle of the Charter of the United Nations and accepts the obligations se forth in article 2 of the charter. The Federal Republic also declare that, upon its accession to the North Atlantic and Brussels Treaties, it will refrain from any action inconsistent with the strictly defensiv character of the treaties. In particular the German Federal Republi undertakes never to have recourse to force to achieve the reunificatio of Germany or the modification of the present boundaries of the German Federal Republic.

In the tripartite declaration, the Governments of the United States, United Kingdom, and France respond appropriately to this declaration, reaffirming in relation to this situation the principles of article 2 of the Charter of the United Nations, condemning the use of force as between nations.

X

A major element in the new arrangements signed at Paris on October 23, 1954, are the four protocols[2] designed to modify the Brussels Treaty. This treaty,[3] signed on March 17, 1948, by France, Belgium, Luxembourg, the Netherlands, and the United Kingdom, was the first major step toward the military integration of postwa Europe, antedating the North Atlantic Treaty by more than a year. Under the terms of the Brussels Treaty all countries were pledged to give full and immediate military assistance to any party against which aggression might occur. The treaty also provided for consultative machinery, for the development of common defense plans. With the advent and growth of NATO, the organizational machinery under the Brussels Treaty became relatively inactive, but the treaty remained in full force and has now afforded a basis for realizing certain major political and security objectives.

The first of the protocols will bring about several important changes in the Brussels Treaty. First, it provides for the accession of Germany and Italy to the Brussels Treaty so that the membership will correspond to that of the proposed European Defense Community, plus he United Kingdom. Second, the Consultative Council of the Brussels Treaty will be transformed into a new "Council of Western European Union" for the purposes of strengthening peace and security and promoting unity and encouraging the progressive integration of Western Europe and closer cooperation between them and with other European organizations. Special provision is made for votes by two-thirds majority or simple majority on specific questions. Provization and the North Atlantic Treaty Organization. There is a clause stating the undesirability of duplicating the work of the military staffs of NATO and stipulating that the Council and its Agency for the Control of Armaments will rely on the military authorities of NATO for nformation and advice on military matters.

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[1] The Declarations of Oct. 3, 1954, are included in the Final Act of the London Conference; *infra*, pp. 1481–1483.

[2] *Infra*, pp. 972–989.

[3] *Infra*, pp. 968–971.

The second protocol is concerned with the size of the forces of Western European Union. It provides that the total strength and number of formations of the land and air forces of Belgium, France, the Federal Republic of Germany, Italy, and the Netherlands placed under SACEUR shall not exceed those laid down in the special agreement annexed to the European Defense Community Treaty.[1] The forces of the United Kingdom under SACEUR shall not exceed those presently under SACEUR command, and Luxembourg's forces shall be set at one regimental combat team. Naval forces are to be set by the NATO annual review process. Any increase in the agreed maximum forces will be subject to the unanimous approval of all parties to the Brussels Treaty.

An important feature of this protocol is the commitment by the United Kingdom to maintain on the mainland of Europe the effective strength of the United Kingdom forces now assigned to SACEUR i. e., four divisions and the Second Tactical Air Force or such other forces as SACEUR regards as having equivalent fighting capacity The United Kingdom undertakes not to withdraw these forces against the wishes of a majority of the Brussels Treaty Powers. The protocol provides that this undertaking does not bind the United Kingdom in case of an acute overseas emergency. It further provides that if maintenance of forces on the Continent at any time places too great a strain on the external finances of the United Kingdom, the Government of the United Kingdom will invite the North Atlantic Council to review the financial conditions under which the United Kingdom forces are maintained.

This commitment is in addition to the commitment implicit in the United Kingdom's membership in the new Council of Western European Union.

The third protocol relates to the control of armaments. It i concerned both with armaments which are not to be manufactured in the Federal Republic and those which are to be controlled within the Brussels Treaty countries on the mainland. The prohibited arms which the Federal Republic of Germany has renounced the right t produce, are atomic, biological, and chemical weapons and guided missiles, larger naval vessels, and strategic bombing aircraft Unanimous vote of the Council of Western European Union i required to give Germany the right to produce atomic, biological, and chemical weapons. A two-thirds majority of the Council can giv Germany the right to produce guided missiles, larger naval vessels and strategic aircraft, provided that SACEUR recommends tha Germany be given this right.

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[1] The text of this special agreement has not been made public.

six Continental countries include both the weapons which are prohibited and a number of other major weapons. These include mines tanks, large artillery and ammunition therefor, aircraft bombs and most types of military aircraft.

A fourth protocol creates an Agency for the Control of Armaments With respect to controlled items, the Agency is to exercise its control over stocks of armaments rather than over production. It will also ensure that prohibited items are not produced in Germany.

The United States will give the Council of Western European Union information with respect to military aid to be furnished to the forces of the Brussels Treaty countries on the mainland of Europe This information will be transmitted to the Agency for Armaments Control by the Council. The United States retains full authority to determine the allocation of United States military assistance.

The Agency does not have responsibilities with respect to the production and procurement of armaments or with the allocation of military equipment. However, the Brussels Treaty countries did agree in a resolution approved at Paris October 21, 1954,[1] that they would convene a Working Group in Paris January 17, 1955, to consider proposals for development of rationalized production programs.

XI

The arrangements which I have discussed impose no treaty engagements and obligations upon the United States other than those incident to restoring to the Federal Republic of Germany sovereign powers which the Allies had assumed after the defeat of the Naz Government; and the acceptance of the Federal Republic as a member of the North Atlantic Treaty. Nevertheless, the prospective attitude of the United States toward the whole arrangement is a matter of profound, even decisive, significance.

In this connection, I made a statement at the London Conference at its meeting of September 29, 1954,[2] the full text of which is reproduced in an annex to the final act of the London Conference, transmitted herewith. By that statement I sought to make clear the desire of our Nation to encourage and support measures which unify and strengthen Western Europe, whereas we would be disposed to draw away from a Europe which persisted in divisions and weakness In this connection I said that if new arrangements were made by the Western European countries, which, in replacement of the European Defense Community, provided unity and strength, so that the hopes which we had placed in EDC could reasonably be transferred to these new arrangements, then I would recommend to you, Mr. President that you should make a declaration of policy comparable to that which you offered, after consultation with congressional leaders, in con-to maintain in Europe such elements of its armed forces as may be necessary o appropriate to contribute our fair share of what is needed for the common defens of this North Atlantic area while the threat to that area exists.[1]

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[1] *London and Paris Agreements*, . . . p. 57.

[2] Secretary Dulles' statement of Sept. 29, 1954, is included in the Final Act of the London Conference; *infra*, pp. 1484–1487.

I was careful to point out that such a declaration would constitut no more than a policy declaration and that it would not be a legall binding commitment. I pointed out:

> under our constitutional system, the President of the United States is Commande in Chief of the Armed Forces of the United States and, as such, has the right t determine their disposition. One President of the United States is not constitutionally able to bind his successor in this matter. Each President of the Unite States comes into office enjoying the right to dispose of the Armed Forces of th United States as he thinks best serves the interests of the United States in accordance with the advice he gets from his military advisers.

I nevertheless pointed out that basic and fundamental policie were, as a practical matter, not likely to be altered and that ou policy to cooperate with a Western Europe which was itself actin effectively to make itself united and strong was, I felt, basic an fundamental United States policy, as both the Executive and th Congress had clearly made manifest.

In pursuance of the statement which I made in London, I expect, Mr. President, to make a recommendation to you as thus indicated, if the arrangements which were entered into at Paris have been, o appear likely to be, realized. I understand that you would be disposed to act favorably on such a recommendation.[2]

XII

It is evident that the foregoing agreements, if they come into forc and are implemented, will have far reaching and benign consequences.

They will fulfill the aspirations of the people of the Federal Republi of Germany for a position of equality in the family of free nations.

They will increase substantially the defensive potential of th Atlantic alliance.

At the same time, they will afford protection against excessiv militarism as a tool of aggressive nationalism. This protection wil go not only to the members of the Atlantic alliance, but to all.

They will offer strong assurances against a renewal of fratricida strife among the free nations of Europe and will afford a framewor of practical cooperation which should encourage further advance toward political and economic unity among the Western Europea states.

Because of the importance to this Nation of achieving these results, I recommend, Mr. President, that you request early consideratio by the Senate of this matter, and, in particular, the advice and consent of the Senate to the ratification of the two documents of treat status which the United States has signed, namely, the protoco which will restore sovereignty to the Federal Republic of German to the North Atlantic Treaty.

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[1] The full text of the President's statement of Apr. 15, 1954, is printed *infra,* pp. 1198–1200.

Respectfully submitted.

JOHN FOSTER DULLES.

. . . .

22. MESSAGE BY THE PRESIDENT TO THE SENATE, NOVEMBER 15, 1954[1]

To the Senate of the United States:

I transmit herewith for the consideration of the Senate a certified copy of the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, signed at Paris on October 23, 1954, to which are annexed five schedules, and a certified copy of the Protocol to the North Atlantic Treaty on the Accession of the Federal Republic of Germany, also signed at Paris on October 23, 1954. I request the advice and consent of the Senate to the ratification of hese two documents.

In addition, I transmit for the information of the Senate a number of related documents. These include a report made to me by the Secretary of State on the present agreements;[2] the Final Act of the Nine Power Conference held at London, September 28–October 3, 1954, with annexes;[3] 3 resolutions adopted by the North Atlantic Council on October 22, 1954;[4] 4 protocols to the Brussels Treaty signed at Paris on October 23, 1954, together with the text of the Brussels Treaty signed on March 17, 1948;[5] a declaration dated October 23, 1954, of the states signatory to the Brussels Treaty inviting Italy and the Federal Republic of Germany to accede to the treaty; a resolution on the production and standardization of armaments adopted by the Nine Power Conference at Paris on October 21, 1954; the Convention on the Presence of Foreign Forces in the Federal Republic of Germany, signed at Paris on October 23, 1954;[8] the Tripartite Agreement on the Exercise of Retained Rights in Germany signed at Paris on October 23, 1954;[9] certain letters relating to the termination of the occupation regime in the Federal Republic of Germany, dated October 23, 1954, together with the texts of letters exchanged in 1952 referred to therein;[10] and a statement on Berlin

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[1] S. Execs. L and M, 83d Cong., 2d sess., pp. 1–4.

[2] *Supra.*

[3] *Infra,* pp. 1474–1491.

[4] S. Execs. L and M, 83d Cong., 2d sess., pp. 59–62. The text of the Resolution to Implement Section IV of the Final Act of the London Conference is also printed *infra,* pp. 1493–1496.

[5] *Infra,* pp. 968–989.

[6] *Infra,* p. 972.

[7] S. Execs. L and M, . . . etc., p. 87.

[8] *Supra,* pp. 610–612.

[9] *Supra,* p. 612.

[10] S. Execs. L and M, . . . etc., pp. 93–169.

United Kingdom in Paris on October 23, 1954.[1]

I know the Senate is aware of the very great importance of these agreements to the security of the United States and to the cause o peace and freedom in the world as a whole. The agreements represent the culmination of a joint effort, extending over several years to promote closer cooperation in security matters among the nations of Western Europe and to find a way of associating the great potentia strength of the Federal Republic of Germany with that of the free world in a manner which will ensure freedom and equality for the people of Germany and at the same time will avoid the danger of a revival of German militarism. The Congress of the United States has recognized on several occasions that the effectiveness of the entire Atlantic relationship depends to a very great extent upon the attainment of these objectives, and last summer the Senate adopted a resolution (S. Res. 295, July 30, 1954)[2] expressing the sense of the Senate that steps should be taken to restore sovereignty to Germany and to enable her to contribute to the maintenance of international peace and security.

It was hoped that these objectives would be accomplished through the treaty constituting the European Defense Community,[3] together with the Bonn conventions of May 26, 1952,[4] which were designed to terminate the occupation regime in the Federal Republic. But the treaty constituting the European Defense Community failed of ratification, and the conventions, being dependent on the treaty, could not be brought into effect. Accordingly, it became necessary to devise a set of alternative arrangements by which the nations of the North Atlantic Community might pursue their common security objectives, and these new arrangements are embodied in the present agreements.

In accordance with these arrangements, the Federal Republic will be invited to accede to the North Atlantic Treaty and, along with Italy, to the Brussels Treaty. Furthermore, important changes will be made in the military arrangements under the North Atlantic Treaty Organization and in the basic nature of the Brussels Treaty to which Belgium, France, Luxembourg, the Netherlands, and the United Kingdom are already parties. These changes will have the effect, not only of placing certain agreed controls on European armaments, but also of strengthening and reinforcing both the North Atlantic Treaty Organization and the new Brussels Treaty Organization, the Western European Union.

In NATO, the powers of the Supreme Allied Commander, Europe will be strengthened in the fields of assignment and deployment o forces, inspection, and logistical organization. In addition, the principle of integration of units may be carried to lower echelons than i now the case. These measures are desirable in their own right be the same time, they create a degree of mutual interdependence among national forces assigned to NATO that will effectively limit the ability of any one nation to take independent military action within SACEUR's area of command.

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[1] *Infra*, p. 1758.

[2] *Infra*, p. 1732.

[3] *Infra*, pp. 1107–1150.

[4] S. Execs. Q and F, 82d Cong., 2d sess., pp. 9–22 and pp. 25–150.

The Brussels Treaty is modified so as to establish a new Counci for Western European Union, and promotion of European integration becomes a new purpose of the treaty. The Council is given important powers in the fields of controlling forces and armaments. The continental forces of the Brussels Treaty countries are set at specified limits, conforming, for those countries which would have been members of the European Defense Community, to the limits set by the EDC Treaty. These limits cannot be changed except by the unanimous consent of the Council. In addition, the United Kingdom has agreed that it will continue to maintain on the mainland of Europe forces of the level presently committed there. Further safeguards are provided in the armaments field. The Federal Republic has renounced the right to manufacture atomic and certain other weapons. Major types of conventional weapons will be subject to control. An Agency for Control of Armaments is to be set up for the purpose of enforcing these arms limitations.

It has also been agreed that the occupation regime must be brought to an end and the Federal Republic will assume the full authority of a sovereign state in its external and internal affairs. This will be accomplished by the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany, which amends the conventions which were placed before the Senate in 1952 and brings them into effect as amended. The amendments are designed principally to bring the Bonn conventions into harmony with the new arrangements for a German defense contribution and with German membership in the North Atlantic Treaty Organization. The greater part of the conventions has been left unchanged. They will provide, as before, for the revocation of the occupation statute, the abolition of the Allied High Commission, and the settlement of numerous problems arising out of the war and the occupation. The convention regulating the status of Allied forces in Germany will continue until it is replaced by new arrangements based on the NATO Status of Forces Agreement,[1] supplemented by such provisions as are necessary in view of the special conditions with regard to forces stationed in the Federal Republic. New arrangements will also eventually have to be concluded on the support of foreign forces in the Federal Republic. Of the special rights retained by the United States, the United Kingdom, and France in the original conventions, those relating to Berlin and to Germany as a whole will be kept on the same terms as before, and the right to station forces in Germany will, after German admission o NATO, be exercised with the consent of the Federal Government insofar as the Federal territory is concerned.

Of the four conventions which are to be amended by the protocol and placed in effect as amended, only one (the Convention on Relations between the Three Powers and the Federal Republic of Germany) was submitted to the Senate for its advice and consent to ratification. The other conventions were in the nature of implementing administrative agreements, for which the Senate recognized that formal approval was unnecessary and, furthermore, was undesirable, inasmuch as they might require technical revision from time to time to meet changing conditions. Approval of the Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany will not change the nature of those related conventions.

While the arrangements embodied in these agreements are complex, their purposes are simple. The Federal Republic is placed on a basis of full equality with other states. The military strength of the Federal Republic will be combined with that of the other countries in the Atlantic community in such a way that the development and use of the German military contribution will be in accordance with the common need. The Federal Republic will be fully associated with the Atlantic community through membership in the North Atlantic Treaty Organization, and with the European community through membership in the Western European Union established under the Brussels Treaty. Both of these organizations will be strengthened internally. The procedures and institutions which are the subject of these agreements make it inevitable that the states involved will act closely together in the matters most important to their security. This concert of action will, I am convinced, foster the spirit of cooperation and desire for continuing association which have been evident in the free nations and which are essential for their future safety and welfare.

One of the principal specific consequences of the new arrangements will be the addition of a substantial increment of German resources to the Atlantic defense system. At the same time, I want to emphasize the fact that these agreements are founded upon the profound yearning for peace which is shared by all the Atlantic peoples. The agreements endanger no nation. On the contrary, they represent one of history's first great practical experiments in the international control of armaments. Moreover, their fundamental significance goes far beyond the combining of strength to deter aggression. Ultimately, we hope that they will produce a new understanding among the free peoples of Europe and a new spirit of friendship which will inspire greater cooperation in many fields of human activity.

I urge the Senate to signify its approval of this great endeavor by giving its advice and consent to ratification of the protocols on the admission of the Federal Republic to the North Atlantic Treaty Organization and on the termination of the occupation regime. I hope these instruments may be studied with a view to enabling the Senate to act promptly on these matters when it meets for its new session in January.

DWIGHT D. EISENHOWER.

RELATIONS, MARCH 31, 1955 [1]

The Committee on Foreign Relations, having had under consideration the protocol on the termination of the occupation regime in th Federal Republic of Germany (Ex. L, 83d Cong., 2d sess.) and th protocol to the North Atlantic Treaty on the accession of the Federa Republic of Germany (Ex. M, 83d Cong., 2d sess.), recommends tha the Senate give its advice and consent to the ratification of the sai protocols.

1. GENERAL PURPOSE OF PROTOCOLS

The protocol on the termination of the occupation regime i Germany will restore sovereignty to the Federal Republic by permitting it to exercise full authority over its internal and externa affairs, subject to the reservation of certain rights relating to Berlin the reunification of Germany, and the conclusion of a peace treaty

The protocol to the North Atlantic Treaty will bring the Federal Republic into the North Atlantic Treaty Organization as the 15t member.

Related to these two protocols are a series of agreements whic will have the effect of creating a Western European Union, establishin a system of military limitations and controls, and providing for th close integration of the armed forces of the free nations in Wester Europe. In the words of the Secretary of State, "the sum total" o these agreements—

> is a Western Europe which will have a large measure of unity and of controlle strength, and which, through that unity and strength, can contribute mightily t its own welfare and to that of others.[2]

2. BACKGROUND

Shortly after the signing of the North Atlantic Treaty in Apri 1949 and inauguration of the United States military assistanc program to help Western European nations rebuild their defenses, i became apparent that adequate defenses in Western Europe woul require some type of German contribution. As might have bee expected, there was deep concern in Western Europe that steps take to enable the Federal Republic to reestablish its armed forces migh lead to a revival of German militarism with a consequent threat t the nations of Western Europe which had so recently been at wa with Germany.

In order to enable the Federal Republic to assist in the defense o Western Europe and at the same time to insure against the reviva of militarism, the then French Prime Minister M. Pleven, propose the establishment of the European Defense Community (EDC).

On May 26, 1952, the Three Powers (France, the United Kingdom and the United States) and the Federal Republic of Germany signe

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[1] S. Exec. Rept. No. 6, 84th Cong., 1st sess., pp. 1–16.

[2] Statement of Mar. 29, 1955; *infra*, pp. 1497–1504.

One day later in Paris a protocol to the North Atlantic Treaty was igned.[2] The Convention on Relations with the Federal Republic, the o-called Bonn convention of 1952, provided for the restoration o overeignty to Western Germany. The NATO protocol extended to Western Germany the area to which the North Atlantic Treaty would pply.

An essential part of this program restoring sovereignty to Germany and extending NATO to cover the Federal Republic was the conclusion of a treaty among the powers of Western Europe to establish the European Defense Community.[3] The EDC envisaged the creation of a common defense organization for six European countries, including the Federal Republic of Germany. The German contribution to the defense organization was to be through the instrumentality o the EDC.

The United States Senate on July 1, 1952, gave its advice and consent to the ratification of the Bonn agreements of 1952 and the NATO protocol of that year by votes of 77–5 and 72–5, respectively Those two agreements never came into effect because the Frencl Chamber of Deputies on August 30, 1954, failed to approve the treaty establishing the EDC—an essential part of the plan to make German an independent and fully contributing partner to the free world defense system in Western Europe.

In light of the possibility that the EDC might not be approved, the United States Senate had on July 30, 1954, by a vote of 88–0, adopte a resolution requesting the President to take such steps as he foun necessary "to restore sovereignty to Germany."[4] Subsequent to the defeat of the EDC, the British Foreign Minister consulted with the governments which had signed the EDC Treaty to ascertain whethe some substitute for that instrument might be devised which woul enable France, Germany, and the other signatories of the EDC t join together in an organization which would make it possible fo Germany to make a contribution to Western European defense without the danger of uncontrolled rearmament. As a result o these efforts, amendments were proposed to the Brussels Pact of 1948 discussed more fully below, which accomplished this purpose.

It was thus possible on October 23, 1954, to conclude a new serie of agreements to terminate the occupation regime in Germany an restore sovereignty to her and to make arrangements for German to be admitted to NATO.

On November 15, 1954, the President transmitted to the Senat the two protocols now before the committee.[5]

3. COMMITTEE ACTION

Although the protocols under consideration have been pending sinc last November 15, the committee did not wish to hold hearings o them until legislative action on the protocols and related agreement

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

[2] *Ibid.*, pp. 23–24.

[3] *Infra*, pp. 1107–1198.

[4] *Infra*, p. 1732.

the protocols were approved by the French Council of the Republic, the Foreign Relations Committee received in executive session the testimony of Gen. Alfred M. Gruenther, supreme allied commander, Europe. On Tuesday, March 29, 1955, it received the testimony of Secretary of State Dulles; on Wednesday, March 30, it heard Deputy Secretary of Defense Robert Anderson and received statements of the Chairman of the Joint Chiefs of Staff, Adm. Arthur W. Radford, and Gen. Orval Cook, deputy United States commander in chief, Europe. On the same date the committee also heard the testimony of private witnesses.[1]

On March 31 the committee favorably reported the pending protocols to the Senate and recommended their early consideration and approval.

4. THE NATO PROTOCOL

Article 10 of the North Atlantic Treaty provides that the parties may—

> by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty.

It will be recalled that the North Atlantic Treaty protocol of 1952 (Ex. R, 82d Cong., 2d sess.), which was approved by the Senate but which did not come into effect because the treaty to establish the European Defense Community was not fully ratified, did not invite Western Germany to accede to the North Atlantic Treaty. It was not then contemplated that Western Germany would become a member of NATO. Instead, that protocol had the effect of extending the terms of the North Atlantic Treaty to an—

> armed attack (i) on the territory of any of the members of the European Defense Community in Europe or in the area described in Article 6 (i) of the North Atlantic Treaty or (ii) on the forces, vessels, or aircraft of the European Defense Community when in the area described . . .

Through another protocol, the Federal Republic as a member of the EDC gave reciprocal commitments to the members of NATO.[2]

The 1954 protocol to the North Atlantic Treaty on the accession of the Federal Republic of Germany[3] (Ex. M, 83d Cong., 2d sess., see p. 37) differs from the 1952 protocol in that it authorizes the extension to the Federal Republic of an invitation to accede to the treaty. Germany will by this action become a full-fledged member of the North Atlantic Treaty Organization.

It should be noted that the 1954 NATO protocol will not come into effect until the relevant related treaties have been approved, particularly the instruments modifying the terms of the Brussels Treaty of 1948. This means that Germany will not be able to join NATO until remilitarization to those provisions of the Brussels Treaty concerned with international control of European armaments.

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[1] For these hearings, see *Protocol on the Termination of the Occupation Regime in the Federal Republic of Germany and Protocol to the North Atlantic Treaty on the Accession of the Federal Republic of Germany: Hearings before the Committee on Foreign Relations, United States Senate, 84th Cong., 1st sess., on Executives L and M, 83d Cong., 2d sess.*

[2] S. Execs. Q and R, 82d Cong., 2d sess., pp. 228–229.

[3] *Infra*, pp. 871–873.

5. GERMAN CONTRIBUTION TO NATO

One of the principal purposes of this network of agreements is to enable Western Germany to make a contribution to the collective defense effort of the North Atlantic Treaty Organization. The importance of this has long been recognized by the Senate. It arises from the fact that the Soviet Union has in being 175 well armed and trained divisions plus a smaller number of less adequate satellite divisions. It also has a strong air force.

The NATO forces which would be called upon to resist an attack are much smaller. NATO's inferiority in this regard will in part be redressed by a German contribution to those forces. It is expected that this contribution will consist of 12 divisions, about 1,300 tactical aircraft, and some naval craft. General Gruenther, supreme allied commander, Europe, estimated that it might take 3 to 4 years to bring this contribution into being. A major Soviet threat would, of course, accelerate this program.

The committee inquired whether Germany would need United States assistance in building its new armed forces. The Secretary of State pointed out that for a number of years the United States, from military-assistance funds, has been building a substantial stockpile of military equipment for the use of a German Army whenever it should come into being. It was his opinion, therefore, that these agreements would not substantially add to the burden on the United States.[1]

By the Finance Convention,[2] one of the conventions submitted to the Senate for its information (see S. Doc. 11, pp. 59–77), Germany is also obligated to contribute to the support of the Allied forces which will remain stationed there for the free world's protection. Up to June 30, 1955, or until the agreements relating to Germany, the Western European Union, and the North Atlantic Treaty all become effective, if this happens before June 30, 1955, this contribution will be (deutschemark) DM600 million or approximately $150 million a month. Should the agreements enter into force before June 30, 1955, Germany's contribution for the next 12 months will be DM3,200 million or about $800 million—an average of $65 million a month. If they do not enter into force by June 30, new negotiations will have to take place to establish Germany's contribution for the following 12 months. After the expiration of the periods set forth in the Finance Convention, Germany agrees to negotiate further with NATO members who have forces stationed there for assistance in the support of those forces.

A further contribution may be expected from Germany in the form of industrial production. In connection with the Brussels Treaty protocols, Germany has renounced the right to manufacture atomic,

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[1] *Hearings*, pp. 18–19.

[2] *Supra*, pp. 539–556.

biological, and chemical weapons, as well as the right t
guided missiles, large naval vessels, and strategic bo
without the approval of the Council of Western Eur
This limitation still leaves the German industrial arse
duce many kinds of conventional arms and ammunition
alliance.

There are other benefits which will spring from Ger
tion with NATO. The committee was impressed in
Secretary Dulles' statement on the psychological impact
tion—the increased effectiveness and the sense of unit
which will be brought about in Western Europe by Ger
tion in NATO and the Western European Union.

6. THE BONN CONVENTION OF 1952 AS AMENDED BY THE P

The 1952 Bonn convention, amended by the Paris
termination of the occupation regime,[2] has three m
(1) It terminates the occupation regime in the Feder
Germany and, as noted earlier, the Federal Republic t
"the full authority of a sovereign state over its intern
affairs"; (2) it sets forth and defines the so-called "r
of the Three Powers which will be continued and w
Berlin and to Germany as a whole, including the r
Germany and a peace settlement; and (3) finally t
enunciates certain common policies which the parti
including efforts to achieve a freely negotiated peace
the reunification of a democratic Germany integra
European community.

The differences between the amended convention a
convention of 1952 which the Senate approved are s
3–18 of Senate Document 11. The amendments the
are now before the Senate for advice and consent to
contained in schedule I of the Paris protocol on the
the occupation regime (pp. 16–21 of Ex. L and Ex.
2d sess.).

Most of the amendments are minor and merely ser
1952 Bonn convention up to date. There is printed i
this report[3] a detailed analysis of the original Bonn co
the changes thereto which the Senate is called upon to

There are three major changes to which the commi
attention of the Senate. The substance of these is to e
with a somewhat greater degree of sovereignty than th

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[1] Declaration of Oct. 3, 1954, by the German Federal
declaration was incorporated into the Final Act of the London
pp. 1478–1479) and noted in Protocol III to the Brussels Tre
(*infra*, pp. 979–984).

[2] *Supra*, pp. 486–498.

[3] Not reprinted here.

neither increase the obligations of, nor diminish the benefits to, the United States as against those reflected in the Bonn convention which was approved by the Senate on July 1, 1952.[1]

One of these changes affects the power originally retained by the occupation authorities (art. 2) relating to the stationing of armed forces in Germany and their security. The amended convention makes new provisions for the stationing of troops by the Three Powers in Germany. Since the reason for keeping troops in Germany is the Soviet position in East Germany and the necessity of maintaining strong defenses for the free world, of which West Germany is a part, it seemed preferable to enter into a contractual agreement with Germany which would place these troops on a footing substantially equal to those of NATO forces stationed in territory of other NATO members. A separate convention was, therefore, negotiated which is discussed in greater detail below. In his report to the President, Secretary Dulles stated that the elimination of this genera right—

> will not affect the right of a military commander if his forces are imminently menaced to take such immediate action (including the use of armed force) as may be appropriate for their protection and as is requisite to remove the danger

A second major change has been made in the Charter of the Arbitra Tribunal which is appended to the Convention on Relations. This Tribunal as originally constituted was given powers not customary for an organ which arbitrates disputes between sovereign states These powers, which applied to legislative and administrative meas ures or judicial decisions within Germany, are now eliminated.

The amended convention also provides that the Three Powers will give up their right to assume emergency powers when the German Federal Government obtains the requisite legal authority itself.

The last noteworthy change relates to the problem of reunification Under the original terms, the signatories agreed to review the Con vention on Relations—

> upon the request of any one of them in the event of unification.

The amended convention adds this substantive language:

> or an international understanding being reached with the participation or consen of the States parties to the present Convention on steps towards bringing abou the reunification of Germany . . .

In this case, the parties mutually agree to modify the convention and the related convention governing the presence of foreign force on German soil, to the necessary extent, if any. The Secretary when questioned on the effect of unification on the treaties before the Senate, gave assurances that although unification would alte our legal relationships with the Federal Republic of Germany, there was no danger of a unified Germany alining itself with the Soviet bloc

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[1] See part V of Secretary Dulles' report, *supra*, pp. 615–617.

The report of the Committee on Foreign Relations, which in 1952 recommended approval of the Convention on Relations with the Federal Republic[1]—the Bonn Agreement—stated that the fear—

> of the possibility that a German national army might be recreated and a Germa imperial staff rebuilt—

gave rise to the Pleven plan. By that plan the countries of Wester Europe were to be able to pool their military power and—

> create a single army under common control, the command of which would lie within the general jurisdiction of Supreme Headquarters, Allied Powers, Europe (SHAPE).

The EDC treaty, had it come into effect, would have provided for the assignment of national armed forces to the EDC. In the words of the report:

> An international or multinational command [would] be created at the army corps level with national units limited to forces of between 13,000 and 14,000 men . . . . There [would] be common uniforms, a common budget, common procurement of military equipment, and a common training program.

All this would have meant—

> a merging of national sovereignty and power into a common defense organization.

Members of the European Defense Community would have been Belgium, the Netherlands, Luxembourg, France, Italy, and Western Germany.

The Brussels Treaty,[2] which provides the framework for the projected Western European Union, was an agreement made in 1948 as between France, Belgium, Luxembourg, the Netherlands, and the United Kingdom. By that treaty the parties agreed to give full and immediate military assistance to any party against which aggressio might occur. It also provided for the development of common defense plans and for broad areas of cooperation between the parties.

When it became apparent that the EDC had failed of the necessary ratification, steps were taken to strengthen and extend the Brussels Treaty so that it might be a more effective focus of European integration. A strengthened Brussels Treaty would serve as a method of assuring German participation in joint defense plans and at the same time create a method to control armaments among the Brussels powers. Four protocols have been proposed.

The first protocol to the Brussels Treaty provides for the accession of Italy and Germany.[3] Thus the membership will correspond to the membership of the defunct EDC except that the United Kingdom will be a member of this group. This protocol also provides that the Consultative Assembly of the Brussels Treaty is to be transformed into a new "Council of Western European Union." Provision is made for

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[1] S. Exec. Rept. No. 16, 82d Cong., 2d sess.

[2] *Infra*, pp. 968–971.

[3] *Infra*, pp. 972–973.

Treaty Organization.

The second protocol to the Brussels Treaty[1] concerns the size of the armed forces to be placed under the command of the supreme allied commander. Increases in the size of these forces will be subject to unanimous approval of all parties to the treaty. In connection with this protocol, the United Kingdom has undertaken to maintain on the mainland of Europe the effective strength of the forces it now assigns to the command of the supreme allied commander. This commitment and the actual participation of the United Kingdom in the substitute for the EDC was an important factor in getting French acceptance of the agreements.

The third protocol[2] is concerned with armaments which are to be controlled by the Western European Union, including those which the Federal Republic of Germany undertakes not to manufacture. There is provision for relaxation of the limitations on German armaments in some categories provided SACEUR[3] so recommends and its recommendations are approved by a two-thirds majority of the Council.

The final protocol to the Brussels Treaty[4] establishes an Agency for the Control of Armaments. This Agency is to exercise its control over stocks of armaments rather than over production. It also has responsibility to see that prohibited items are not produced in Germany.

The protocols to the Brussels Treaty do not in any way affect the obligations of the United States. The United States is not a party to the Brussels agreement. The effective operation of the Brussels Treaty, as amended by these protocols, is, however, of concern to the United States since it provides a method whereby German forces may be contributed to the defense of Western Europe without rousing the fears of other nations of Western Europe essential to that defense. Further, not only as a major step toward the elimination of intra-European strife but in a broader sense, these agreements provide the foundation for close cooperation and integration among European allies.

8. THE STATUS OF THREE POWER FORCES IN GERMANY

With the termination of the occupation regime in Western Germany as provided in the protocol under consideration, it has been necessary to make provision for the status of Three Power armed forces expected to stay in Germany. Generally speaking, foreign armed forces in Western Germany will no longer be in Germany as "occupying forces." Instead, they will be in Germany in much the same status as such forces are stationed in other NATO countries.

Until termination of the occupation, United States forces in Germany will continue to operate as occupation forces. Thereafter, foreign armed forces in Germany will, except as noted below, operate under the Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany.[5]

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[1] *Infra*, pp. 977–979.

[2] *Infra*, pp. 979–984.

[3] Supreme Allied Commander, Europe.

[4] *Infra*, pp. 984–989.

status of the members of the allied forces, civilian employees, and dependents. It establishes their immunities from German jurisdiction and makes provision for their logistic support. This convention, which has been submitted to the Senate for its information, is substantially the same as that which was before the Senate when the 1952 Bonn agreement was considered.

This so-called Forces Convention[1] is viewed as temporary in nature. It is to be replaced, according to the terms of article 8, paragraph 1 (b) of the Convention on Relations, by new arrangements to be based on the agreement between the parties to the North Atlantic Treaty regarding the status of their forces, signed at London on June 19, 1951[2] (the NATO Status of Forces Convention, which was approved by the Senate July 15, 1953). The new arrangement will include provision to deal with the special conditions existing with respect to the forces in Germany, which is a forward area.

Secretary of State Dulles was asked whether extension of the NATO Status of Forces Convention to Germany would be submitted to the Senate for its advice and consent. He replied:

> I believe that if the Status of Forces Agreement is extended in its present form it would not have to come back to the Senate for further ratification. If there are modifications in it, then that might be required if they were material.[3]

It should be noted that insofar as the rights and responsibilities of the three powers to station armed forces in Western Germany are related to "Berlin and to Germany as a whole, including the reunification of Germany and a peace settlement" they are to continue. Moreover, the Federal Republic agrees to the stationing in the Federal Republic, from the time the German defense contribution arrangements come into effect, of forces of the same nationality and effective strength as at that time may be stationed in the Federal Republic. (See art. 4, Convention on Relations, as amended.)

In view of the importance of provisions relating to the continued stationing of foreign forces in the Federal Republic and Berlin, where they may contribute to Western defenses, the committee asked the Department of State to supply its analysis of the relevant provisions. That analysis is as follows:

STATIONING OF FOREIGN FORCES IN THE FEDERAL REPUBLIC

The Convention on the Presence of Foreign Forces in the Federal Republic of Germany sets forth the basic principles which will govern the continued stationing of Allied forces in the Federal Republic and the introduction of new forces there. It is not concerned with the status of such forces while they are in the Federal territory, for that subject is to be regulated at first by the Convention on the Rights and Obligations of Foreign Forces and Their Members in the Federal Republic of Germany (signed on May 26, 1952, and amended by schedule II to the protocol on the termination of the occupation regime), and later by new agreements based on the agreement between the parties to the North Atlantic Treaty regarding the status of their forces supplemented by such provisions as are necessary in view of the special conditions regarding the forces in Germany.

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[1] *Supra*, pp. 610–612.

[2] *Infra*, pp. 1529–1544.

[3] *Hearings*, p. 27.

or these provisions are closely related to it.

The right to station armed forces in the Federal Republic is retained by the Three Powers (Convention on Relations, art. 4, par. 1). Insofar as the right to station forces is needed in connection with the rights relating to Berlin and Germany as a whole, it will not be affected by any of the other provisions about to be described (art. 4, par. 2, first sentence). Insofar as the right to station forces exists apart from the other two retained rights, it will be exercised in accordance with article 5 of the Convention on Relations until the German admission to NATO, and thereafter in accordance with the Convention on the Presence of Foreign Forces in the Federal Republic. (See Convention on Relations, art. 4, par. 2, second and third sentences.) To understand the differences in the exercise of the stationing right for these two periods, one must compare the provisions of article 5 of the Convention on Relations with the provisions of the Convention on the Presence of Forces.

Article 5 covers the period, if there is one, between the termination of the occupation regime and the entry into force of the German defense arrangements (i. e., the German admission to NATO). During this time there will be no restrictions upon the stationing right except that the Three Powers must consult the Germans, insofar as the military situation allows, on all matters regarding the stationing of forces (art. 5, subpar. 1 (a)) and must, except in the event of imminent attack, obtain German consent before bringing into the Federal Republic armed contingents of any nation not already providing such contingents (art. 5, subpar. 1 (b)).

After the Federal Republic has joined NATO these provisions will lapse, and the stationing right will be regulated entirely by the provisions of the Convention on the Presence of Forces (art. 4, par. 1). According to these provisions, forces equivalent to those already in the Federal Republic when it joins NATO may continue to be stationed there (art. 1, par. 1), but the effective strength of such forces may be increased only with the consent of the German Government (art. 1, par. 2). German consent is also required for the entry into the Federal Republic of additional forces for training purposes (art. 1, par. 3). A right of passage through the Federal territory is granted to the Three Powers for their forces in transit to or from Austria or any country which is a member of NATO (art. 1, par. 4). The retained right relating to Berlin includes the right of access to the city and obviates the necessity of specifying Berlin in this connection. The convention is open to accession by the other states which had forces stationed in the Federal territory on October 23, 1954, the day the Paris agreements were signed (art. 2); these states were Belgium, Canada, Denmark, the Netherlands, and Luxembourg. The convention is to expire upon the conclusion of a German peace settlement, or earlier if the signatory states should agree upon new arrangements (art. 3, par. 1), and it will be reviewed at the same time and under the same conditions as are specified in article 10 of the Convention on Relations (art. 3 par. 2).

The effect of these provisions is not to abolish the right of the Three Powers to station forces in the Federal Republic, but to change its exercise from a purely unilateral prerogative to a matter of mutual understanding between them and the German Government. The convention ensures that Allied forces will remain in the Federal Republic on terms suitable between equal members of a great military alliance.

United States forces in Germany.—President Eisenhower on March 10, 1955, stated that—

> it will be the policy of the United States: . . . to continue to maintain in Europe including Germany, such units of its Armed Forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defens of the North Atlantic area while a threat to that area exists, and will continue t deploy such forces in accordance with agreed North Atlantic strategy for th defense of this area. . . .[1]

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[1] *Infra,* pp. 989–991.

the Committee on Foreign Relations, referred to this statement of the President, as well as to Mr. Dulles' preliminary statement on this subject at the London Conference. He noted that these assurances with respect to the maintenance of United States troops in Europe were—

> only policy statements, not binding either as treaties or even in the sense that future Presidents would be legally committed thereby. However, the assurances describe policies which have been developed through bipartisan cooperation over a period of years. They reflect what now seems to be the fundamental and enduring interest of the United States in European unity and Atlantic security. They will, I am confident, continue to serve our national interests.[1]

These statements, as well as the provisions of the Convention on the Termination of the Occupation relative to the stationing of armed forces in the Federal Republic, raise questions with regard to (1) the deployment of American troops abroad, and (2) the possibility of their commitment to action. With respect to the first question, the Secretary was asked whether the pending protocols would have the effect of changing the situation concerning the need for congressional authorization with respect to the deployment of United States forces abroad. The Secretary replied:

> I think the answer to that is a clear "No." As a matter of fact, I think it is even clearer under this arrangement than perhaps before that it is in all respects now covered by the North Atlantic Treaty and there is provision for proceeding to implement it only by constitutional methods and by whatever may be the correct view as to the distribution of power in this manner as between the Senate and the Executive. I do not necessarily subscribe to the views that were expressed in this resolution [S. Res. 99] because that is not my business to pass on that question but whatever the position is the Constitution here at home continues wholly unimpaired by reason of the treaties now before you.[2]

With respect to the second question, the possibility of the commitment of United States Armed Forces to action, the committee emphasizes that in the event of hostilities the final decision to engage any forces in combat under this treaty is no broader than that which exists under the North Atlantic Treaty. Under the provisions of articles V and XI of the North Atlantic Treaty, to which the Federal Republic will now be a party, the engagement of forces in combat is a matter for national decision in accordance with the respective constitutional processes of the parties. The supreme allied commander in Europe (SACEUR) would have no authority to engage the forces of any nation in hostilities until the nation concerned had determined that it wished to take such action under article V of the North Atlantic Treaty.

9. RETAINED RIGHTS

The Convention on Relations, as amended by the Paris protocol on the termination of the occupation regime, reserves to the occupying powers certain rights and responsibilities which they have here-

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[1] *Hearings*, pp. 6–7.
[2] *Ibid.*, p. 33.

and 5 of the convention.

The first of these rights relates to the city of Berlin, which is not now a part of the Federal Republic of Germany and is administered by the Allied forces. In view of Berlin's unique and exposed position, the Three Powers will continue to exercise their rights and responsibilities in Berlin. In two declarations of October 1954,[1] France, the United Kingdom, and the United States, furthermore, reaffirm their intention to maintain armed forces in Berlin as long as their responsibilities require it and to treat an attack against Berlin as an attack against their forces, and their determination to insure the greatest possible degree of self-government in Berlin compatible with Berlin's special status.

The second retained right and responsibility applies to Germany as a whole, including reunification and a peace settlement. Since either of these actions would materially alter the legal relationships between the Federal Republic and the occupying powers, this reservation is necessary so that the latter can participate in any negotiations which have the objective of reunifying Germany and concluding a peace treaty.

In the original Convention on Relations, the three Powers also retained rights with respect to the stationing of armed forces in Germany and the protection of their security. The method of dealing with these general rights is discussed elsewhere in this report.

Since the effective date of the Convention on Relations is no longer linked to the entry into force of the EDC nor to Germany's entry into the North Atlantic Treaty Organization, there has been added a new provision for the retention of the rights relating to the fields of disarmament and demilitarization in the event that the Convention on Relations becomes effective before Germany accedes to the North Atlantic Treaty.

10. REUNIFICATION OF GERMANY

The question arises as to whether action taken to restore sovereignty to Western Germany and to bring her into full membership in NATO will have any adverse effect with respect to the possible future reunification of Germany. The committee was deeply concerned that nothing be done by these agreements to interfere with that possibility. At the same time it was concerned that the desire of the German people to be reunited should not lead to the use of force to accomplish that result.

Article 10 of the amended Bonn agreement provides that—

> The Signatory States will review the terms of the present Convention and the related Conventions (a) upon request of any one of them, in the event of the reunification of Germany, or an international understanding being reached with the participation or consent of the States parties to the present Convention on steps towards bringing about the reunification of Germany . . .

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[1] This reference is to the Tripartite Declaration on Berlin included in the Final Act of the London Conference (*infra*, pp. 1481–1483) and to the Tripartite Declaration on Berlin of Oct. 22, 1954 (*infra*, p. 1758).

London meeting of September 28–October 3 that it—

> undertakes never to have recourse to force to achieve the reunification of Germany or the modification of the present boundaries of the German Federal Republic . . .[1]

During consideration of the protocols some concern was expressed at the possibility that Western Germany, once it has regained its sovereignty, might disregard the treaty commitments with reference to possible negotiations with Eastern Germany or with the Soviet Union on the subject of reunification. The committee sought additional comment from the Department of State on this matter and received the following information:

> This matter was dealt with in Secretary Dulles' testimony before the committe on March 29 in which he referred to article 2 of the Convention on Relation Between the Three Powers and the Federal Republic of Germany. Under that article, the Three Powers retain all the rights which they have held as occupying powers "relating to Berlin and to Germany as a whole, including the reunificatio of Germany and a peace settlement." These provisions give the United States, the United Kingdom, and France the right not only to intervene in any negotiations on reunification, but also to require that any agreement on this subject be acceptable to them.

11. THE RELATED CONVENTIONS

In 1952 when the President transmitted to the Senate the original Convention on Relations and the protocol to the North Atlantic Treaty,[2] he also laid before the Senate for purposes of information fou related conventions. They were:

(1) *The Convention on the Rights and Obligations of Foreign Force and Their Members in the Federal Republic of Germany.*[3]—This convention regulates the status of foreign troops and their dependents i Germany with provisions for their general rights and obligations jurisdiction in civil and criminal proceedings, extradition, custom treatment, health and sanitation, the movements of troops in Germany communications, and the logistic requirements of the forces.

(2) *The Finance Convention.*[4]—This agreement contains provision for German financial support of Allied forces in Germany and for th settlement of financial questions arising from the stationing of force in Germany, including management of support funds, compensatio for damages, etc.

(3) *The Convention on Settlement of Matters Arising Out of th War and the Occupation.*[5]—This instrument deals with a variety o topics, among them the validity of allied control legislation, work o the occupation courts, the handling of war criminals, the continuatio of the decartelization program, the payment of compensation to th victims of Nazi persecution, reparations, the handling of displace persons and refugees, the restitution of property and related problems

(4) *The Convention on the Tax Treatment of Forces and Their Mem-*

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[1] See the declaration included in Part V of the Final Act of the London Conference; *infra*, p. 1481.

[2] Message of June 2, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 1–4.

[3] *Ibid.*, pp. 89–130.

[4] *Ibid.*, pp. 135–150.

is provided, in this agreement, for members of the armed forces and heir dependents.

In its report of June 28, 1952 (Ex. Rept. 16, 82d Cong., 2d sess.), the committee discussed the relationship of these conventions to the Convention on Relations:

> It should be noted that the . . . supplementary or related conventions, even though binding upon the United States, do not call for formal ratification. Article 8 of the Convention on Relations between the Three Powers and the Federal Republic of Germany provides that the . . . related conventions will enter into force simultaneously with the main convention. Thus the Senate, in approving ratification of the one convention, in effect would give its approval to the subsidiary agreements.
>
> The committee agrees that the four conventions are integral parts of the German settlement and should go into force at the same time. And even though the committee does not approve the procedure outlined above as a general practice, it nevertheless believes that it may be desirable in the present instance to submit the more detailed aspects of the German settlement in the form of agreements which do not require formal ratification. Some of the technical provisions in the three conventions are temporary in nature and as the situation in Germany changes, it may be necessary to make modifications in them from time to time. Under such circumstances it would seem impractical to require resubmission of the conventions to the Senate before each such modification could go into effect.

These related conventions will, under the terms of article 1 of the 1954 Paris protocol on termination, come into force at the same time as the protocol. The subsidiary agreements themselves are amended by schedules II, III, IV, and V of the Paris protocol (pp 22–36 of Ex. L and Ex. M, 83d Cong., 2d sess.) and are printed in their amended form on pages 19–127 of Senate Document 11.[2]

For the most part these amendments serve to bring the related conventions up to date by eliminating references to the EDC, by taking account of the lapse of time since their original conclusion and by reflecting Germany's progress since 1952 with respect to certain Allied programs, such as decartelization, deconcentration, displaced persons and refugees, claims and external debts, etc. Other changes were made to reflect better Germany's new status of equality and to bring the related conventions into harmony with more recent agreements.

The original conventions, it has been noted, were submitted as executive agreements for the information of the Senate. Although the amendments to these conventions are a part of the protocol on the termination of the occupation regime, which is now before the Senate for advice and consent to ratification, the President and Secretary of State have informed the committee that ratification of the protocol "will not change the nature of those related conventions."

There are also submitted for the information of the Senate two new agreements: (1) the Convention on the Presence of Foreign Forces in the Federal Republic of Germany;[3] and (2) the Tripartite Agreement on the Exercise of Retained Rights in Germany.[4]

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[1] Message of June 2, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 130–134

[2] Also, *supra*, pp. 498–610.

[3] *Supra*, pp. 610–612.

[4] *Supra* p. 612.

territory and is discussed further elsewhere. The second one declares that the retained rights set out in the Convention on Relations will be exercised by the respective Chiefs of Mission accredited to the Federa Republic of Germany who will act jointly in matters the Three Powers consider to be of common concern. Neither of these instruments has been submitted to the Senate for approval.

12. SENATE ATTITUDES TOWARD GERMANY

The committee notes that these protocols reflect views which the Senate has often expressed on the German question. For the past several years the reports of the Foreign Relations Committee have called attention to the potential importance of Western Germany in the joint defense of the free world. At the same time the committee has urged upon the executive branch that appropriate action should be taken as soon as practicable so that Germany might assume her proper place in the family of nations.

As has been noted, the Senate has taken a series of steps in this direction. On October 18, 1951, the Senate approved a resolution which had been passed by the House of Representatives and which was signed by the President on October 19, bringing to an end the state of war between the United States and Germany.[1] As the Foreign Relations Committee's report on the resolution pointed out, this resolution reflected the agreement reached by the Governments of France and the United Kingdom on September 18, 1950,[2] to the effect that the unification of the German people was of fundamental importance to the free world and that peaceful and friendly relations should be restored with the Federal Republic of Germany as soon as possible.

Then in July 1952, the Senate, with only five dissenting votes approved the 1952 Bonn agreement and the NATO protocol to include Western Germany within the defensive system of the North Atlantic area.

On July 30, 1954, by a vote of 88–0, the Senate approved Senate Resolution 295,[3] expressing its wish that the President should—

> take such steps as he deems appropriate . . . to restore sovereignty to Germany and to enable her to contribute to the maintenance of international peace and security.

These are only a few of the many manifestations of interest which the Senate has expressed in the desirability of working out a satisfactory solution to the German problem. The committee believes that inasmuch as the Senate's advice has been followed by the executive branch, this should constitute an additional reason why the consent of the Senate to ratification should be speedily granted.

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[1] PL 181 (H. J. Res. 289), 82d Cong., 1st sess. (65 Stat. 451); see also President Truman's proclamation of Oct. 24, 1951 (*infra*, pp. 1723–1724).

[2] See the communique of Sept. 19, 1950; *infra*, p. 1462.

[3] *Infra*, p. 1732.

The two protocols before the Senate have the same basic purposes as the 1952 Bonn conventions and the 1952 NATO protocol. These remain the same as when the Senate considered the 1952 agreements. The effect of the protocol on termination, and the related documents, is to bring the occupation regime to an end, to include the Federal Republic of Germany in the community of free nations as an equal partner, to resolve a number of outstanding problems left over from the war and the occupation, to provide for the stationing of forces in the Federal Republic for the purpose of assisting in the common defense, to regulate the status of those forces while they are in the Federal territory, and to provide for their support by the Federal Republic.

Had the Bonn conventions of 1952 come into effect it would not now be necessary for the Senate to act on the pending protocols. Those conventions, however, have had to be revised for several reasons.

In the first place, they were, by their own terms, to come into effect only upon the entry into force of the treaty constituting the European Defense Community. When that treaty failed of ratification in France last August, the conventions were prevented from coming into force, and the references to the treaty in their texts became meaningless. Shortly thereafter, new arrangements for a German defense contribution were agreed upon in London, utilizing NATO and the new Western European Union, rather than the European Defense Community. Accordingly, the conventions had to be revised to sever the connection between them and the EDC Treaty, to delete the references to that treaty, and to take account of the new defense arrangements. In addition, there were provisions which had become outmoded since the conventions were signed, because the action originally contemplated had subsequently been taken or otherwise become out of date, and further revisions were called for in order to simplify the agreements and make them reflect more clearly the status of equality which the Federal Republic was to attain.

The Committee on Foreign Relations believes that it is in the national interest for the United States to take the steps necessary to restore the Federal Republic of Germany to a position of equality with other free nations of the world. In the 10 years since the end of World War II, the German people and their Government have shown their dedication to the principles of free economic enterprise and democratic government. Their dedication to these principles has been rewarded. German economic recovery has been little short of phenomenal. Postwar elections have been conducted freely and fairly with a resulting stability of government necessary for economic progress.

Western Germany, by the Convention Terminating the Occupation Regime, undertakes to conduct its policy—

> in accordance with the principles set forth in the Charter of the United Nations and with the aims defined in the Statute of the Council of Europe.

to associate itself fully with the community of free nations through membership in international organizations contributing to the common aims of the free world.

It undertakes by the protocols to the Brussels Treaty to subject its potential military strength to international control. And, finally, as noted earlier, in the final act of the London Conference, despite the tremendous desire of the people of Germany to be reunited, the Federal Republic has undertaken—

> never to have recourse to force to achieve the reunification of Germany or the modification of the present boundaries of the German Federal Republic and to resolve by peaceful means any disputes which may arise between the Federal Republic and other states.

The committee urges the Senate to give its support to the pending protocols so that the desire of the United States to have the Federal Republic of Germany join with the free nations in defense of free men may be clearly demonstrated.

Re-establishment of an Independent and Democratic Austria

24. AUSTRIAN STATE TREATY, MAY 15, 1955[1]

PREAMBLE

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and France, hereinafter referred to as "the Allied and Associated Powers", of the one part and Austria, of the other part;

Whereas on 13th March, 1938, Hitlerite Germany annexed Austria by force and incorporated its territory in the German Reich;

Whereas in the Moscow Declaration published on 1st November, 1943,[2] the Governments of the Union of Soviet Socialist Republics, the United Kingdom and the United States of America declared that they regarded the annexation of Austria by Germany on 13th March, 1938, as null and void and affirmed their wish to see Austria re-established as a free and independent State, and the French Committee of National Liberation made a similar declaration on 16th November, 1943;[3]

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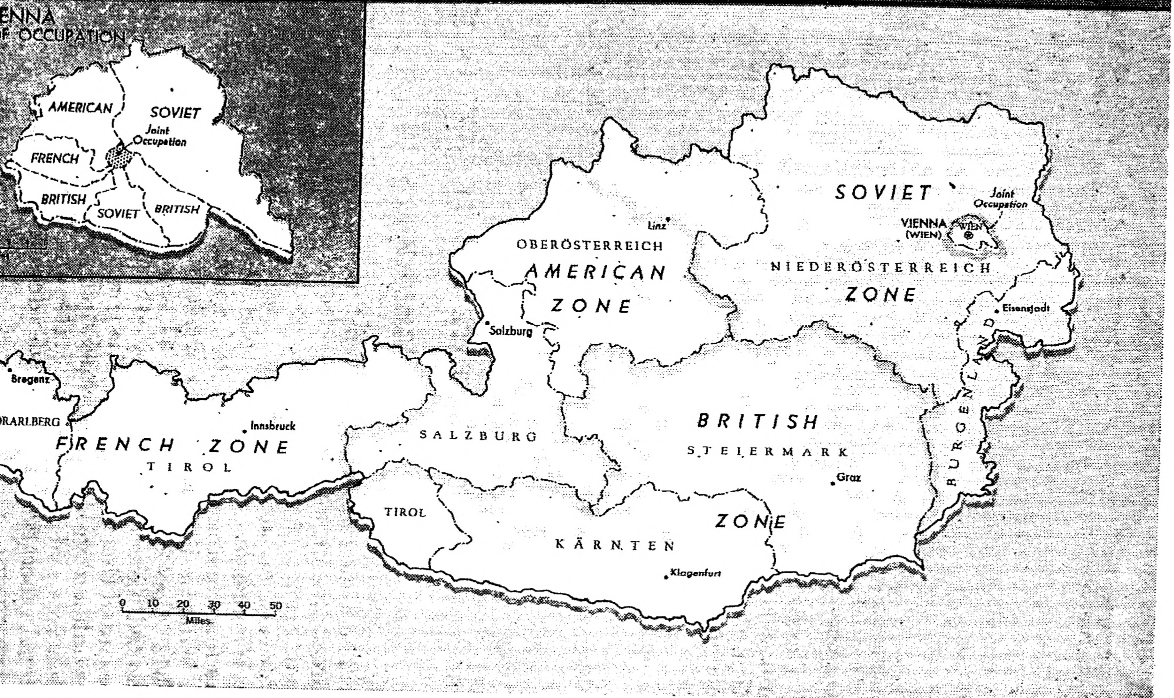
[1] TIAS 3298; 6 UST, pt. 2, p. 2369. Ratification advised by the Senate June 17, 1955; ratified by the President June 24, 1955; proclaimed by the President Aug. 5, 1955; entered into force July 27, 1955.

[2] *A Decade of American Foreign Policy*, p. 11.

[3] *Recueil de Textes à l'usage des Conférences de la Paix, Première partie, Documents généraux, II, Déclaration du Comité français de la libération nationale relative à indépendance de l'Autriche* (Paris, 1947), p. 5.

AUSTRIA



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Linz
OBERÖSTERREICH
AMERICAN ZONE
NIEDERÖSTERREICH
ZONE
Eisenstadt
Salzburg
BURGENLAND
Bregenz
ORARLBERG
Innsbruck
FRENCH ZONE
TIROL
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the domination of Hitlerite Germany;

Whereas the Allied and Associated Powers, and Austria, taking into account the importance of the efforts which the Austrian people themselves have made and will have to continue to make for the restoration and democratic reconstruction of their country, desire to conclude a treaty re-establishing Austria as a free, independent and democratic State, thus contributing to the restoration of peace in Europe;

Whereas the Allied and Associated Powers desire by means of the present Treaty to settle in accordance with the principles of justice all questions which are still outstanding in connection with the events referred to above, including the annexation of Austria by Hitlerite Germany and participation of Austria in the war as an integral part of Germany; and

Whereas the Allied and Associated Powers and Austria are desirous for these purposes of concluding the present Treaty to serve as the basis of friendly relations between them, thereby enabling the Allied and Associated Powers to support Austria's application for admission to the United Nations Organization;[1]

Have therefore appointed the undersigned Plenipotentiaries who, after presentation of their full powers, found in good and due form, have agreed on the following provisions:

PART I

POLITICAL AND TERRITORIAL CLAUSES

ARTICLE 1

Re-Establishment of Austria as a Free and Independent State

The Allied and Associated Powers recognize that Austria is re-established as a sovereign, independent and democratic State.

ARTICLE 2

Maintenance of Austria's Independence

The Allied and Associated Powers declare that they will respect the independence and territorial integrity of Austria as established under the present Treaty.

ARTICLE 3

Recognition by Germany of Austrian Independence

The Allied and Associated Powers will incorporate in the German Peace Treaty provisions for securing from Germany the recognition of

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[1] The Austrian application was approved by the U.N. Security Council Dec. 14, 1955; see *supra*, p. 337.

Germany of all territorial and political claims in respect of Austria and Austrian territory.

ARTICLE 4

Prohibition of Anschluss

1. The Allied and Associated Powers declare that political or economic union between Austria and Germany is prohibited. Austria fully recognizes its responsibilities in this matter and shall not enter into political or economic union with Germany in any form whatsoever.

2. In order to prevent such union Austria shall not conclude any agreement with Germany, nor do any act, nor take any measures likely, directly or indirectly, to promote political or economic union with Germany, or to impair its territorial integrity or political or economic independence. Austria further undertakes to prevent within its territory any act likely, directly or indirectly, to promote such union and shall prevent the existence, resurgence and activities of any organizations having as their aim political or economic union with Germany, and pan-German propaganda in favor of union with Germany.

ARTICLE 5

Frontiers of Austria

The frontiers of Austria shall be those existing on 1st January, 1938.

ARTICLE 6

Human Rights

1. Austria shall take all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

2. Austria further undertakes that the laws in force in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.

ARTICLE 7

Rights of the Slovene and Croat Minorities

1. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall enjoy the same rights on equal terms as all other Austrian nationals, including the right to their own organizations, meetings and press in their own language.

Croat language and to a proportional number of their own secondary schools; in this connection school curricula shall be reviewed and a section of the Inspectorate of Education shall be established for Slovene and Croat schools.

3. In the administrative and judicial districts of Carinthia, Burgenland and Styria, where there are Slovene, Croat or mixed populations the Slovene or Croat language shall be accepted as an official languag in addition to German. In such districts topographical terminolog and inscriptions shall be in the Slovene or Croat language as wel as in German.

4. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall participate in the cultural, administrative and judicial systems in these territories on equal terms wit other Austrian nationals.

5. The activity of organizations whose aim is to deprive the Croa or Slovene population of their minority character or rights shall b prohibited.

ARTICLE 8

Democratic Institutions

Austria shall have a democratic government based on elections b secret ballot and shall guarantee to all citizens free, equal and universa suffrage as well as the right to be elected to public office withou discrimination as to race, sex, language, religion or political opinion

ARTICLE 9

Dissolution of Nazi Organizations

1. Austria shall complete the measures, already begun by th enactment of appropriate legislation approved by the Allied Commission for Austria, to destroy the National Socialist Party and it affiliated and supervised organizations, including political, militar and para-military organizations, on Austrian territory. Austri shall also continue the efforts to eliminate from Austrian political economic and cultural life all traces of Nazism, to ensure that th above-mentioned organizations are not revived in any form, and t prevent all Nazi and militarist activity and propaganda in Austria

2. Austria undertakes to dissolve all Fascist-type organization existing on its territory, political, military and para-military, an likewise any other organizations carrying on activities hostile to an United Nation or which intend to deprive the people of their democratic rights.

3. Austria undertakes not to permit, under threat of penal punishment which shall be immediately determined in accordance wit procedures established by Austrian Law, the existence and th activity on Austrian territory of the above-mentioned organizations

Special Clauses on Legislation

1. Austria undertakes to maintain and continue to implement the principles contained in the laws and legal measures adopted by the Austrian Government and Parliament since 1st May, 1945, and approved by the Allied Commission for Austria, aimed at liquidation of the remnants of the Nazi regime and at the re-establishment of the democratic system, and to complete the legislative and administrative measures already taken or begun since 1st May, 1945, to codify and give effect to the principles set out in Articles 6, 8 and 9 of the present Treaty, and insofar as she has not yet done so to repeal or amend all legislative and administrative measures adopted between 5th March, 1933, and 30th April, 1945, which conflict with the principles set forth in Articles 6, 8 and 9.

2. Austria further undertakes to maintain the law of 3rd April, 1919, concerning the House of Hapsburg-Lorraine.

ARTICLE 11

Recognition of Peace Treaties

Austria undertakes to recognize the full force of the Treaties of Peace with Italy, Roumania, Bulgaria, Hungary and Finland[1] and other agreements or arrangements which have been or will be reached by the Allied and Associated Powers in respect of Germany and Japan[2] for the restoration of peace.

PART II

MILITARY AND AIR CLAUSES

ARTICLE 12

Prohibition of Service in the Austrian Armed Forces of Former Members of Nazi Organizations, and Certain Other Categories of Persons

The following shall in no case be permitted to serve in the Austrian Armed Forces:

1. Persons not of Austrian nationality;
2. Austrian nationals who had been German nationals at any time before 13th March, 1938;
3. Austrian nationals who served in the rank of Colonel or in any higher rank in the German Armed Forces during the period from 13th March, 1938, to 8th May, 1945;
4. With the exception of any persons who shall have been exonerated

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[1] Treaties of Feb. 10, 1947; for texts, see *Treaties of Peace with Italy, Bulgaria, Roumania, Hungary and Finland* (Department of State publication 2743; 1947).

[2] Treaty of Peace with Japan, Sept. 8, 1951; *supra*, pp. 425–440.

nationals falling within any of the following categories:

(a) Persons who at any time belonged to the National Socialist Party ("N.S.D.A.P.")[1] or the "S.S.",[2] "S.A.",[3] or "S.D."[4] organizations; the Secret State Police ("Gestapo");[5] or the National Socialist Soldiers' Association ("N.S. Soldatenring"); or the National Socialist Officers' Association ("N.S. Offiziersvereinigung").

(b) Officers in the National Socialist Fliers' Corps ("N.S.F.K.")[6] or the National Socialist Motor Corps ("N.S.K.K.")[7] of rank not lower than "Untersturmfuehrer" or its equivalent;

(c) Functionaries in any supervised or affiliated organizations of the N.S.D.A.P. of rank not lower than that equivalent to "Ortsgruppenleiter";

(d) Authors of printed works or scenarios placed by the competent commissions set up by the Government of Austria in the category of prohibited works because of their Nazi character;

(e) Leaders of industrial, commercial and financial undertakings who according to the official and authenticated reports of existing industrial, commercial and financial associations, trade unions and party organizations are found by the competent commission to have cooperated actively in the achievement of the aims of the N.S.D.A.P. or of any of its affiliated organizations, supported the principles of National Socialism or financed or spread propaganda for National Socialist organizations or their activities, and by any of the foregoing to have damaged the interests of an independent and democratic Austria.

ARTICLE 13

Prohibition of Special Weapons

1. Austria shall not possess, construct or experiment with—a) Any atomic weapon, b) any other major weapon adaptable now or in the future to mass destruction and defined as such by the appropriate organ of the United Nations, c) any self-propelled or guided missile or torpedoes, or apparatus connected with their discharge or control, d) sea mines, e) torpedoes capable of being manned, f) submarines or other submersible craft, g) motor torpedo boats, h) specialized types of assault craft, i) guns with a range of more than 30 kilometers, j) asphyxiating, vesicant or poisonous materials or biological substances in quantities greater than, or of types other than, are required for legitimate civil purposes, or any apparatus designed to produce, project or spread such materials or substances for war purposes.

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[1] *Nationalsozialistische Deutsche Arbeiterpartei.*

[2] *Schutzstaffeln.*

[3] *Sturmabteilungen.*

[4] *Sicherheitsdienst.*

[5] *Geheime Staatspolizei.*

[6] *Nationalsozialistisches Fliegerkorps.*

[7] *Nationalsozialistisches Kraftfahrkorps.*

this Article prohibitions of any weapons which may be evolved as a result of scientific development.

ARTICLE 14

Disposal of War Matériel of Allied and German Origin

1. All war materiel of Allied origin in Austria shall be placed at the disposal of the Allied or Associated Power concerned according to the instructions given by that Power.

Austria shall renounce all rights to the above-mentioned war matériel.

2. Within one year from the coming into force of the present Treaty Austria shall render unusable for any military purpose or destroy:

all excess war matériel of German or other non-Allied origin;

in so far as they relate to modern war matériel, all German and Japanese drawings, including existing blueprints, prototypes, experimental models and plans;

all war matériel prohibited by Article 13 of the present Treaty; all specialized installations, including research and production equipment, prohibited by Article 13 which are not convertible for authorized research, development or construction.

3. Within six months from the coming into force of the present Treaty Austria shall provide the Governments of the Soviet Union, of the United Kingdom, of the United States of America, and of France with a list of the war matériel and installations enumerated in paragraph 2.

4. Austria shall not manufacture any war matériel of German design.

Austria shall not acquire or possess, either publicly or privately, or by any other means, any war matériel of German manufacture, origin or design except that the Austrian Government may utilize, for the creation of the Austrian armed forces, restricted quantities of war matériel of German manufacture, origin or design remaining in Austria after the Second World War.

5. A definition and list of war matériel for the purposes of the present Treaty are contained in Annex I.

ARTICLE 15

Prevention of German Rearmament

1. Austria shall co-operate fully with the Allied and Associated Powers in order to ensure that Germany is unable to take steps outside German territory towards rearmament.

2. Austria shall not employ or train in military or civil aviation or in the experimentation, design, production or maintenance of war matériel:

persons who are, or were at any time previous to 13th March, 1938, nationals of Germany;

under Article 12;

or persons who are not Austrian nationals.

ARTICLE 16

Prohibition Relating to Civil Aircraft of German and Japanese Desig

Austria shall not acquire or manufacture civil aircraft which are o German or Japanese design or which embody major assemblies o German or Japanese manufacture or design.

ARTICLE 17

Duration of Limitations

Each of the military and air clauses of the present Treaty shall remain in force until modified in whole or in part by agreement betwee the Allied and Associated Powers and Austria or, after Austria become a member of the United Nations, by agreement between the Security Council and Austria.

ARTICLE 18

Prisoners of War

1. Austrians who are now prisoners of war shall be repatriated a soon as possible, in accordance with arrangements to be agreed upo by the individual Powers detaining them and Austria.

2. All costs, including maintenance costs, incurred in moving Austrians who are now prisoners of war from their respective assembl points, as chosen by the Government of the Allied or Associate Power concerned, to the point of their entry into Austrian territory shall be borne by the Government of Austria.

ARTICLE 19

War Graves and Memorials

1. Austria undertakes to respect, preserve and maintain the grave on Austrian territory of the soldiers, prisoners of war and national forcibly brought to Austria of the Allied Powers as well as of the othe United Nations which were at war with Germany, the memorials an emblems on these graves, and the memorials to the military glory o the armies which fought on Austrian territory against Hitlerit Germany.

2. The Government of Austria shall recognize any commission delegation or other organization authorized by the State concerned t identify, list, maintain or regulate the graves and edifices referred t in paragraph 1; shall facilitate the work of such organizations; an shall conclude in respect of the above-mentioned graves and edifice such agreements as may prove necessary with the State concerned o

with any commission or delegation or other organization authorized by it. It likewise agrees to render, in conformity with reasonable sanitary requirements, every facility for the disinterment and despatch to their own country of the remains buried in the said graves, whether at the request of the official organizations of the State concerned or at the request of the relatives of the persons interred.

PART III

ARTICLE 20

Withdrawal of Allied Forces

1. The Agreement on the Machinery of Control in Austria of 28th June, 1946 [1] shall terminate on the coming into force of the present Treaty.

2. On the coming into force of the present Treaty, the Inter-Allied Command established under paragraph 4 of the Agreement on Zones of Occupation in Austria and the Administration of the City of Vienna of 9th July, 1945,[2] shall cease to exercise any functions with respect to the administration of the City of Vienna. The Agreement on Zones of Occupation of Austria shall terminate upon completion of the withdrawal from Austria of the forces of the Allied and Associated Powers in accordance with paragraph 3 of the present Article.

3. The forces of the Allied and Associated Powers and members of the Allied Commission for Austria shall be withdrawn from Austria within ninety days from the coming into force of the present Treaty, and in so far as possible not later than 31st December, 1955.

4. The Government of Austria shall accord to the forces of the Allied and Associated Powers and the members of the Allied Commission for Austria pending their withdrawal from Austria the same rights, immunities and facilities as they enjoyed immediately before the coming into force of the present Treaty.

5. The Allied and Associated Powers undertake to return to the Government of Austria after the coming into force of the present Treaty and within the period specified in paragraph 3 of this Article:

(a) All currency which was made available free of cost to the Allied and Associated Powers for the purpose of the occupation and which remains unexpended at the time of completion of withdrawal of the Allied forces;

(b) All Austrian property requisitioned by Allied forces or the Allied Commission, and which is still in their possession. The obligations under this sub-paragraph shall be applied without prejudice to the provisions of Article 22 of the present Treaty.

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[1] *A Decade of American Foreign Policy*, pp. 614–620.

[2] *Ibid.*, pp. 610–612.

PART IV

CLAIMS ARISING OUT OF THE WAR

ARTICLE 21

Reparation

No reparation shall be exacted from Austria arising out of the existence of a state of war in Europe after 1st September, 1939.

ARTICLE 22

German Assets in Austria

The Soviet Union, the United Kingdom, the United States of America and France have the right to dispose of all German assets in Austria in accordance with the Protocol of the Berlin Conference of 2nd August, 1945.[1]

1. The Soviet Union shall receive for a period of validity of thirty years concessions to oil fields equivalent to 60% of the extraction of oil in Austria for 1947, as well as property rights to all buildings, constructions, equipment, and other property belonging to these oil fields, in accordance with list No. 1 and map No. 1[2] annexed to the Treaty.

2. The Soviet Union shall receive concessions to 60% of all exploration areas located in Eastern Austria that are German assets to which the Soviet Union is entitled in conformity with the Potsdam Agreement and which are in its possession at the present time, in accordance with list No. 2 and map No. 2 [2] annexed to the Treaty.

The Soviet Union shall have the right to carry out explorations on the exploration areas mentioned in the present paragraph for 8 years and to subsequent extraction of oil for a period of 25 years beginning from the moment of the discovery of oil.

3. The Soviet Union shall receive oil refineries having a total annual production capacity of 420,000 tons of crude oil, in accordance with list No. 3.

4. The Soviet Union shall receive those undertakings concerned in the distribution of oil products which are at its disposal, in accordance with list No. 4.

5. The Soviet Union shall receive the assets of the Danube Shipping Company (D.D.S.G.), located in Hungary, Roumania and Bulgaria; and likewise, in accordance with list No. 5, 100% of the assets of the Danube Shipping Company located in Eastern Austria.

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[1] *Ibid.*, p. 40.

[2] The copies of the maps as received with the certified copy of the treaty from the Government of the Union of the Soviet Socialist Republics are deposited with the treaty in the archives of the Department of State where they are available for reference. [Footnote in original.]

6. The Soviet Union shall transfer to Austria property, rights and interests held or claimed as German assets, together with existing equipment, and shall also transfer war industrial enterprises, together with existing equipment, houses and similar immovable property, including plots of land, located in Austria and held or claimed as war booty with the exception of the assets mentioned in paragraphs 1, 2, 3, 4 and 5 of the present Article. Austria for its part undertakes to pay the Soviet Union 150,000,000 United States dollars in freely convertible currency within a period of 6 years.

The said sum will be paid by Austria to the Soviet Union in equal three-monthly installments of 6,250,000 United States dollars in freely convertible currency. The first payment will be made on the first day of the second month following the month of the entry into force of the present Treaty. Subsequent three-monthly payments will be made on the first day of the appropriate month. The last three-monthly payment will be made on the last day of the six-year period after the entry into force of this Treaty.

The basis for payments provided for in this Article will be the United States dollar at its gold parity on 1st September, 1949, that is, 35 dollars for 1 ounce of gold.

As security for the punctual payment of the above-mentioned sums due to the Soviet Union the Austrian National Bank shall issue to the State Bank of the U.S.S.R. within two weeks of the coming into force of the present Treaty promissory notes to the total sum of 150,000,000 United States dollars to become payable on the dates provided for in the present Article.

The promissory notes to be issued by Austria will be non-interest-bearing. The State Bank of the U.S.S.R. does not intend to discount these notes provided that the Austrian Government and the Austrian National Bank carry out their obligations punctually and exactly.

7. Legal Position of Assets:

(a) All former German assets which have become the property of the Soviet Union in accordance with paragraphs 1, 2, 3, 4 and 5 of the present Article shall, as the general rule, remain under Austrian jurisdiction and, in conformity with this, Austrian legislation shall apply to them.

(b) Where duties and charges, commercial and industrial rights and the levying of taxation are concerned, these assets shall be subject to conditions not less favorable than those which apply or will apply to undertakings belonging to Austria and its nationals and also to other states and persons who are accorded most-favored-nation treatment.

(e) The rights, properties and interests transferred to th Soviet Union as well as the rights, properties and interests whic the Soviet Union relinquishes to Austria shall be transferre without any charges or claims on the part of the Soviet Unio or on the part of Austria. Under the words "charges and claims' is understood not only creditor claims arising out of the exercis of Allied control of these properties, rights and interests afte 8th May, 1945, but also all other claims including claims i respect of taxes. The reciprocal waiver by the Soviet Unio and Austria of charges and claims applies to all such charges an claims as exist on the date when Austria formalizes the rights o the Soviet Union to the former German assets transferred to i and on the date of the actual transfer to Austria of the asset relinquished by the Soviet Union.

8. The transfer to Austria of all properties, rights and interest provided for in paragraph 6 of the present Article, and also th formalizing by Austria of the rights of the Soviet Union to the forme German assets to be transferred shall be effected within two month from the date of the entry into force of the present Treaty.

9. The Soviet Union shall likewise own the rights, property an interests in respect of all assets, wherever they may be situated i Eastern Austria, created by Soviet organizations or acquired by them by purchase after 8th May, 1945 for the operation of the properties enumerated in Lists 1, 2, 3, 4 and 5 below.

The provisions as set forth in sub-paragraphs a, b, c and d o paragraph 7 of the present Article shall correspondingly apply to thes assets.

10. Disputes which may arise in connection with the applicatio of the provisions of the present Article shall be settled by means o bilateral negotiations between the interested parties.

In the event of failure to reach agreement by bilateral negotiation etween the Governments of the Soviet Union and of Austria withi three months, disputes shall be referred for settlement to an Arbitration Commission consisting of one representative of the Soviet Unio and one representative of Austria with the addition of a third member a national of a third country, selected by mutual agreement betwee the two Governments.

11. The United Kingdom, the United States of America and France hereby transfer to Austria all property, rights and interests held o laimed by or on behalf of any of them in Austria as former German assets or war booty.

Property, rights and interests transferred to Austria under this pargraph shall pass free from any charges or claims on the part of the United Kingdom, the United States of America or France arising out of the exercise of their control of these properties, rights or interests after 8th May, 1945.

12. After fulfillment by Austria of all obligations stipulated in the provisions of the present Article or derived from such provisions, the claims of the Allied and Associated Powers with respect to former German assets in Austria, based on the Decision of the Berlin Conference of 2nd August, 1945, shall be considered as fully satisfied.

13. Austria undertakes that, except in the case of educational, cultural, charitable and religious property none of the properties, rights and interests transferred to it as former German assets shall be returned to ownership of German juridical persons or where the value of the property, rights and interests exceeds 260,000 s[c]hillings, to the ownership of German natural persons. Austria further undertakes not to pass to foreign ownership those rights and properties indicated in Lists 1 and 2 of this Article which will be transferred to Austria by the Soviet Union in accordance with the Austro-Soviet Memorandum of April 15, 1955.[1]

14. The provisions of this Article shall be subject to the terms of Annex II of this Treaty.

LIST No. 1

Oil Fields in Eastern Austria on Which Concessions Shall Be Granted to the Soviet Union

Serial No.	Name of Oil Field	Name of Company
1.	Mühlberg	Itag
2.	St. Ulrich-DEA	D. E. A.
3.	St. Ulrich-Niederdonau	Niederdonau
4.	Gösting-Kreutzfield-Pionier (50% of Production)	E. P. G.

NOTE:

A. All properties of the oil fields listed above shall be transferred to the Soviet Union, including all wells, both productive and non-productive, with all their surface and underground equipment, oil collecting networks, installations and equipment for drilling, compressor and pumping stations, mechanical workshops, gasoline installations, steam-generating plants, electric generating plants and sub-stations with transmission networks, pipe lines, water supply systems and water mains, electric networks, steam lines, gas mains, oilfield roads, approach roads, telephone lines, fire fighting equipment, motor vehicle and tractor parks, office and living accommodation serving the fields, and other property connected with the exploitation of the oil fields listed above.

B. The right of ownership and leasehold rights to all the properties of the abovementioned producing fields shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these fields, exploited them or participated in their exploitation, had rights in, title to, or interest in the said properties.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

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[1] S. Exec. G, 84th Cong., 2d sess., pp. 42–43.

LIST No. 2

Concessions to Oil Exploration Areas in Eastern Austria To Be Transferred to the Soviet Union

Serial No.	Name of Concession	Name of Company	Hectarage of the area to be ceded to the U. S. S. R
1	Neusiedlersee	Elverat	122, 480
2	Leithagebirge	Kohle Oel Union	52, 700
3	Gross Enzersdorf (including the Aderklaa field).	Niederdonau	175, 000
4	Hauskirchen (including the Alt Lichtenwarth field).	Itag	4, 800
5	St. Ulrich	D. E. A.	740
6	Schrattenberg	Kohle Oel Union	3, 940
7	Grosskrut	Wintershal	8, 000
8	Mistelbach	Preussag	6, 400
9	Paasdorf (50% of the area)	E. P. G.	3, 650
10	Steinberg	Steinberg Naphta	100
11	Hausbrunn	D. E. A.	350
12	Drasenhofen (area on Austrian territory).	Kohle Oel Union	8, 060
13	Ameis	Preussag	7, 080
14	Siebenhirten	Elverat	5, 000
15	Leis	Itag	14, 800
16	Korneuburg	Ritz	30, 000
17	Klosterneuburg (50% of the area)	E. P. G.	7, 900
18	Oberlaa	Preussag	51, 400
19	Enzersdorf	Deutag	25, 800
20	Oedenburger Pforte	Kohle Oel Union	55, 410
21	Tulln	Donau Oel	38, 070
22	Kilb (50% of the area)	E. P. G.	18, 220
23	Pullendorf	Kohle Oel Union	60, 700
24	Nord Steiermark (50% of the area in the Soviet Zone).	E. P. G.	55, 650
25	Mittel Steiermark (area in the Soviet Zone).	Wintershal	9, 840
26	Gösting (50% of the area)	E. P. G.	250
	Total	26 Concessions	766, 340 ha.

NOTE: A. All the properties of the above-mentioned oil exploration area shall be transferred to the Soviet Union.

B. The right of ownership and leasehold rights to all the properties of the bove-mentioned oil exploration areas shall be transferred to the Soviet Unio to the extent that any natural or juridical person who owned these oil exploratio areas, exploited them or participated in their exploitation, had rights in, titl to, or interest in the said properties.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entr into force of the present Treaty, and the lease agreements cannot be terminate without the consent of the Soviet Union.

LIST No. 3

Oil Refineries in Eastern Austria the Property Rights to Which Are To Be Transferre to the Soviet Union

Serial No.	Name of the refinery	Annual produc- tive capacity in 1,000 tons of crud oil in 1947
1	Lobau	240.
2	Nova	120.
3	Korneuburg	60.
4	Okeros (re-refining)	------
5	Oil Refinery "Moosbierbaum" excluding the equipment belonging to France and subject to restitution	------
	Total	420.

NOTE:

A. The properties of the refineries shall be transferred with all their equipmen including technological installations, electric generating stations, steam generatin plants, mechanical workshops, oil depot equipment and storage parks, loadin ramps and river moorings, pipe lines including the pipe line Lobau-Zistersdorf roads, approach roads, office and living quarters, fire fighting equipment, etc.

B. The right of ownership and leasehold rights to all the properties of the above mentioned oil refineries shall be transferred to the Soviet Union to the exten that any natural or juridical person who owned these refineries, exploited ther or participated in their exploitation, had rights in, title to, or interest in the sai properties.

In cases where any property was held on lease, the periods of the leases, as pro vided for in the lease agreements, shall be calculated from the date of the entr into force of the present Treaty, and the lease agreements cannot be terminate without the consent of the Soviet Union.

LIST No. 4

Undertakings in Eastern Austria Engaged in the Distribution of Oil Products, th Property Rights to Which Are To Be Transferred to the Soviet Union

Serial No.	Name of the Undertaking
1	Deutsche Gasolin A. G.—distributing branch in Austria G. m. b. H.
2	"A. G. der Kohlenwerkstoffverband Gruppe Benzin-Benzol-Verband Bochum"—branch in Austria including the oil depot belonging to it a Praterspitz.
3	"Nova" Mineral Oel Vertrieb Gesellschaft m. b. H.
4	"Donau-Oel G. m. b. H."
5	"Nitag" with the oil depot at Praterspitz.

in Eastern Austria, including oil depots, pipe lines, distributing pumps, filling and emptying ramps, river moorings, roads, approach roads, etc.

In addition, the property rights over the whole park of railway tank wagons now in the possession of Soviet organizations shall be transferred to the Soviet Union.

B. The right of ownership and leasehold rights to all the equipment of the bove-mentioned undertakings situated in Eastern Austria and engaged in the distribution of oil products shall be transferred to the Soviet Union to the extent that any natural or juridical person who owned these undertakings, exploited hem or participated in their exploitation, had rights in, title to, or interest in the said equipment.

In cases where any property was held on lease, the periods of the leases, as provided for in the lease agreements, shall be calculated from the date of the entry into force of the present Treaty, and the lease agreements cannot be terminated without the consent of the Soviet Union.

LIST No. 5

Assets of the D. D. S. G. in Eastern Austria To Be Transferred to the Soviet Union

I. SHIPYARD IN THE TOWN OF KORNEUBURG

The property rights of the shipyard in the town of Korneuburg situated on the left bank of the Danube at Kilometer 1943 and occupying territory on both sides of the old bed of the river Danube, with an aggregate area estimated at 220,770 square meters are to be transferred to the Soviet Union. The wharf area is equal to 61,300 square meters and the berth accommodation to 177 meters.

Furthermore, rights in the lease of the shipyard area of 2,946 square meters are to be transferred to the Soviet Union.

Property rights and other rights to all the equipment of the shipyard to the extent that the D. D. S. G. had rights, or title to or interest in the said equipment, including all plots of land, buildings, dockyards and slips, floating tackle workshops, buildings and premises, power stations and transformer sub-stations railway sidings, transport equipment, technological and operational equipment ools and inventory, communications and all communal welfare installations dwelling houses and barracks, and also all other property belonging to the shipyard are to be transferred to the Soviet Union.

II. AREAS OF THE PORT OF THE CITY OF VIENNA

a) First Area (Nordbahnbruecke)

1. Port area from point 1931, 347.35 kilometers along the course of the Danube to point 1931, 211.65 kilometers, including in it the "Donau-Sandwerkplatz" area, and from point 1931, 176.90 kilometers to point 1930, 439.35 kilometers along the course of the Danube, including in it the areas "Nordbahnbruecke" and "Zwischenbruecke", extending along the wharfside for a total distance o 873.2 meters and with an average width of about 70 meters.

b) Second Area (Nordbahnlaende)

2. Port area from point 1929, 803.00 kilometers to point 1929, 618.00 kilometers along the course of the Danube, extending along the wharfside for a distance of 185.00 meters and with an average width of about 15 meters with the two adjacent railways and also the plot of the "Kommunal Baeder" area.

c) Third Area (Praterkai)

Port area from point 1928, 858.90 kilometers to point 1927, 695.30 kilometers along the course of the Danube, for a distance of 1163.60 meters and with an verage width of about 70 meters.

Port area, bordering on point 1925, 664.7 kilometers, on the Danube on the area of the port used by the Hungarian Steamship Company, to point 1925, 529.30 kilometers on the area occupied by the railway (Kaibahnhof), extending along the wharfside for a total distance of 135.4 meters and with an average width of about 70 meters.

The four areas of the Port enumerated shall be transferred with all the hydrotechnical constructions, warehouses, magazines, sheds, river station, operational, service and dwelling houses, auxiliary buildings and constructions, mechanical and loading and unloading equipment and mechanisms, repair shops with equipment, transformer sub-stations and electrical equipment, communications, communal welfare installations, all road and transport installations and also all equipment and inventory.

III. PROPERTY AND PLANT OF THE AGENCIES, OF RIVER STATIONS AND STORES

Serial number	Name
	Niederranna
1	Agency and warehouse building.
	Obermuehl
2	Agency and warehouse building.
3	Land plot 536 square meters.
	Neuhaus
4	Waiting room.
	Mauthausen
5	Agency building.
	Wallsee
6	Agency building.
7	Warehouse.
	Grein
8	Agency and warehouse building.
	Sarmingstein
9	Agency building.
	Ybbs
10	Agency building.
	Poechlarn
11	Living premises.
12	Agency building.
13	Land plot 1,598 square meters.
	Melk
14	Warehouse (in the city).
15	Waiting room and office.
16	Warehouse.
	Schoenbuehel
17	Waiting room.

Serial number	Name
	Aggsbach-Dorf
18	Agency building.
19	Warehouse.
	Spitz
20	Agency building.
21	Warehouse.
22	Land plot 1,355 square meters.
	Weissenkirchen
23	Office and waiting room.
24	Warehouse.
25	Land plot 516 square meters.
	Duernstein
26	Agency building.
	Stein
27	Living premises.
28	Waiting room and warehouse building.
29	Land plot alongside house.
	Krems
30	Agency building.
	Hollenburg
31	Waiting room.
	Tulln
32	Agency building.
	Greifenstein
33	Shed.
	Korneuburg
34	Waiting room and booking office building.
	Hainburg
35	Living premises.
36	Agency building.
37	Warehouse.
38	Land plot 754 square meters.

Serial number	Name
	Arnsdorf
39	Agency building.
	Landing Stages
40	Melkstrom.
41	Isperdorf.
42	Marbach.
43	Weitenegg.
44	Deutsch-Altenburg.
45	Zwentendorf.
46	Kritzendorf.

The property enumerated in Section III. is to be transferred with all equipmen and inventory.

IV. PROPERTY IN THE CITY OF VIENNA

1. Living house at No. 11, Archduke Karl Square (formerly house No. 6), 2n District, standing on its own land.
2. Freehold land and house at 204 Handelskai, 2nd District.
3. Freehold building plots in Wehlistrasse, 2nd District, Catastral Registr Nos. 1660, 1661, 1662.
4. Leased land plot at No. 286 Handelskai, 2nd District.

The property enumerated in Section IV. is to be transferred with all equipmen and inventory.

NOTE TO SECTIONS II., III. AND IV

The land, occupied by the Port area mentioned in Section II. of the presen list, and also by the agency buildings, river stations, warehouses and othe buildings, enumerated in Sections III. and IV. of the present list and also a property indicated in Sections II., III. and IV. are to be transferred to th U. S. S. R. on the same legal basis on which this land and other property were held b the D. D. S. G., with the proviso that the land and other property owned by th D. D. S. G. on 8th May, 1945, pass into the ownership of the U. S. S. R.

In cases where agreements which established the legal basis for the transfe of land to the D. D. S. G. did not provide for the transfer to the D. D. S. G of the ownership rights to this land, the Austrian Government shall be oblige to formalize the transfer to the U. S. S. R. of rights, acquired by the D. D. S. G by such agreements, and to prolong the validity of the latter for an indefinit period with the proviso that in the future the validity of such agreements shall no be canceled without the consent of the Government of the U. S. S. R.

The extent of the Soviet Union's liabilities in respect of these agreements is t be determined by agreement between the Government of the U. S. S. R. and th Government of Austria. These liabilities shall not exceed the liabilities under taken by the D. D. S. G. in accordance with agreements concluded on or befor 8th May, 1945.

V. VESSELS, BELONGING TO THE D. D. S. G. LOCATED IN EASTERN AUSTRIA AND TO BE TRANSFERRED TO U. S. S. R.

No.	Type of Vessel	Present Name	Old Name	Horse Power	Cargo carrying capacity
1	Tug	"Vladivostock".	"Persenbeug"	1000	------
2	Tug	"Cronstadt"	"Bremen"	800	------
3	Passenger steamer	"Caucasus"	"Hellios"	1100	------
4	Dumb tanker barge	104	"DDSG-09714"	------	967
5	Dumb tanker barge	144	"DDSG-09756"	------	974
6	Dumb tanker barge	161	"DDSG-05602"	------	548
7	Dumb tanker barge	09765	"DDSG-09765"	------	952
8	Dumb tanker barge	29	"DDSG-XXIX"	------	1030
9	Dumb dry cargo barge	22	(Taken over after completion).	------	972
10	Dumb dry cargo barge	23	(Taken over after completion).	------	972
11	Dumb dry cargo barge	EL-72	"DDSG-EL-72"	------	180
12	Dumb dry cargo barge	654	"DDSG-67277"	------	669
13	Dumb dry cargo barge	689	"DDSG-6566"	------	657
14	Dumb dry cargo barge	1058	"DDSG-1058"	------	950
15	Dumb dry cargo barge	5016	"DDSG-5016"	------	520
16	Dumb dry cargo barge	5713	"DDSG-5713"	------	576
17	Dumb dry cargo barge	5728	"DDSG-5728"	------	602
18	Dumb dry cargo barge	6746	"DDSG-6746"	------	670
19	Dumb dry cargo barge	65204	"DDSG-65204"	------	650
20	Dumb dry cargo barge	67173	"DDSG-67173"	------	670
21	Dumb dry cargo barge	10031	"DDSG-10031"	------	942
22	Dumb dry cargo barge	5015	"DDSG-5015"	------	511
23	Dumb dry cargo barge	6525	"DDSG-6525"	------	682
24	Dumb dry cargo barge	67266	"DDSG-67266"	------	680
25	Lighter	304	"Johanna"	------	30
26	Lighter	411	"V-238"	------	40
27	Double funnel pontoon.	RP-IV	"RP-IV"	------	------
28	Double funnel pontoon.	RP-VI	"DDSG-RP-VI"	------	------
29	Double funnel pontoon.	RP-XX	"DDSG-RP-XX"	------	------
30	Landing Stage	EP-97	"DDSG-EP-9721"	------	------
31	Pontoon	EP-120	"DDSG-EP-120"	------	------
32	Deckless Lighter	"Trauner"	"Trauner"	------	------
33	Floating Crane	P-1	(nameless)	------	------
34	Floating Crane	P-2	"DDSG-21"	------	------
35	Pontoon	PT-7	------	------	------
36	Pontoon	PT-8	------	------	------

ARTICLE 23

persons who have been subjected to the penalties of denazification measures; such property shall be placed at the disposal of the Austrian Government if it has not been subjected to blocking or confiscation in accordance with the laws or ordinances in force in Germany after 8th May, 1945.

2. The restoration of Austrian property rights in Germany shall be effected in accordance with measures which will be determined by the Powers in occupation of Germany in their zones of occupation.

3. Without prejudice to these and to any other disposition in favor of Austria and Austrian nationals by the Powers occupying Germany, and without prejudice to the validity of settlements already reached, Austria waives on its own behalf and on behalf of Austrian nationals all claims against Germany and German nationals outstanding on 8th May, 1945 except those arising out of contract and other obligations entered into, and rights acquired, before 13th March, 1938. This waiver shall be deemed to include all claims in respect of transactions effected by Germany during the period of the annexation of Austria and all claims in respect of loss or damage suffered during the said period, particularly in respect of the German public debt held by the Austrian Government or its nationals and of currency withdrawn at the time of the monetary conversion. Such currency shall be destroyed upon the coming into force of the present Treaty.

ARTICLE 24

Renunciation by Austria of Claims against the Allies

1. Austria waives all claims of any description against the Allied and Associated Powers on behalf of the Austrian Government or Austrian nationals arising directly out of the war in Europe after 1st September, 1939, or out of actions taken because of the existence of a state of war in Europe after that date whether or not such Allied or Associated Power was at war with Germany at the time. This renunciation of claims includes the following:

(a) Claims for losses or damages sustained as a consequence of acts of armed forces or authorities of Allied or Associated Powers;

(b) Claims arising from the presence, operations or actions of armed forces or authorities of Allied or Associated Powers in Austrian territory;

(c) Claims with respect to the decrees or orders of Prize Courts of Allied or Associated Powers, Austria agreeing to accept as valid and binding all decrees and orders of such Prize Courts on or after 1st September, 1939 concerning ships or goods belonging to Austrian nationals or concerning the payment of costs;

(d) Claims arising out of the exercise or purported exercise of belligerent rights.

2. The provisions of this Article shall bar, completely and finally,

trian Government agrees to make equitable compensation in schillings to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Austrian territory and in satisfaction of noncombat damage claims against the forces of the Allied or Associated Powers arising in Austrian territory.

3. Austria likewise waives all claims of the nature covered by paragraph 1 of this Article on behalf of the Austrian Government or Austrian nationals against any of the United Nations whose diplomatic relations with Germany were broken off between 1st September, 1939 and 1st January, 1945, and which took action in co-operation with the Allied and Associated Powers.

4. The Government of Austria shall assume full responsibility for Allied military currency of denominations of five schillings and under issued in Austria by the Allied Military Authorities, including all such currency in circulation at the coming into force of the present Treaty. Notes issued by the Allied Military Authorities of denominations higher than five schillings shall be destroyed and no claims may be made in this connection against any of the Allied or Associated Powers.

5. The waiver of claims by Austria under paragraph 1 of this Article includes any claims arising out of actions taken by any of the Allied or Associated Powers with respect to ships belonging to Austrian nationals between 1st September, 1939 and the coming into force of the present Treaty as well as any claims and debts arising out of the Conventions on prisoners of war now in force.

PART V

PROPERTY, RIGHTS AND INTERESTS

ARTICLE 25

United Nations Property in Austria

1. In so far as Austria has not already done so, Austria shall restore all legal rights and interests in Austria of the United Nations and their nationals as they existed on the day hostilities commenced between Germany and the United Nation concerned, and shall return all property in Austria of the United Nations and their nationals as it now exists.

2. The Austrian Government undertakes that all property, rights and interests falling under this Article shall be restored free of all encumbrances and charges of any kind to which they may have become subject as a result of the war with Germany and without the imposition of any charges by the Austrian Government in connection with their return. The Austrian Government shall nullify all measures of seizure, sequestration or control taken against United Nations property in Austria between the day of commencement of hostilities between Germany and the United Nation concerned and the coming into force of the present Treaty. In cases where the property has not been returned within six months from the coming into force of the

coming into force of the Treaty, except in cases in which the claimant is able to show that he could not file his application within this period.

3. The Austrian Government shall invalidate transfers involving property, rights and interests of any description belonging to United Nations nationals, where such transfers resulted from force exerted by Axis Governments or their agencies between the beginning of hostilities between Germany and the United Nation concerned and 8th May, 1945.

4. (a) In cases in which the Austrian Government provides compensation for losses suffered by reason of injury or damage to property in Austria which occurred during the German occupation of Austria or during the war, United Nations nationals shall not receive less favorable treatment than that accorded to Austrian nationals; and in such cases United Nations nationals who hold, directly or indirectly, ownership interests in corporations or associations which are not United Nations nationals within the meaning of paragraph 8 (a) of this Article shall receive compensation based on the total loss or damage suffered by the corporations or associations and bearing the same proportion to such loss or damage as the beneficial interest of such nationals bears to the capital of the corporation or association.

(b) The Austrian Government shall accord to United Nations and their nationals the same treatment in the allocation of materials for the repair or rehabilitation of their property in Austria and in the allocation of foreign exchange for the importation of such materials as applies to Austrian nationals.

5. All reasonable expenses incurred in Austria in establishing claims, including the assessment of loss or damage, shall be borne by the Austrian Government.

6. United Nations nationals and their property shall be exempted from any exceptional taxes, levies, or imposts imposed on their capital assets in Austria by the Austrian Government or by any Austrian authority between the date of the surrender of the German armed forces and the coming into force of the present Treaty for the specific purpose of meeting charges arising out of the war or of meeting the costs of occupying forces. Any sums which have been so paid shall be refunded.

7. The owner of the property concerned and the Austrian Government may agree upon arrangements in lieu of the provisions of this Article.

8. As used in this Article:

(a) "United Nations nationals" means individuals who are nationals of any of the United Nations, or corporations or associations organized under the laws of any of the United Nations, at the coming into force of the present Treaty, provided that the said individuals, corporations or associations also had this status on 8th May, 1945.

The term "United Nations nationals" also includes all individuals, corporations or associations which, under the laws in force i Austria during the war, were treated as enemy.

(b) "Owner" means one of the United Nations, or a nationa of one of the United Nations, as defined in sub-paragraph (a above, who is entitled to the property in question, and include a successor of the owner, provided that the successor is also United Nation or a United Nations national as defined in sub paragraph (a). If the successor has purchased the property i its damaged state, the transferor shall retain his rights to compen sation under this Article, without prejudice to obligations be tween the transferor and the purchaser under domestic law.

(c) "Property" means all movable or immovable property whether tangible or intangible, including industrial, literary an artistic property, as well as all rights or interests of any kind i property.

9. The provisions of this Article do not apply to transfers of prop erty, rights or interests of United Nations or United Nations national n Austria made in accordance with laws and enactments which wer n force as Austrian Law on 28th June 1946.

10. The Austrian Government recognizes that the Brioni Agree ment of 10th August, 1942 [1] is null and void. It undertakes to partic pate with the other signatories of the Rome Agreement of 21st March 1923,[2] in any negotiations having the purpose of introducing into it provisions the modifications necessary to ensure the equitable settle ment of the annuities which it provides.

ARTICLE 26

Property, Rights and Interests of Minority Groups in Austria

1. In so far as such action has not already been taken, Austria under takes that, in all cases where property, legal rights or interests i Austria have since 13th March, 1938, been subject of forced transfe or measures of sequestration, confiscation or control on account of th racial origin or religion of the owner, the said property shall b returned and the said legal rights and interests shall be restore together with their accessories. Where return or restoration is im possible, compensation shall be granted for losses incurred by reaso of such measures to the same extent as is, or may be, given to Austria nationals generally in respect of war damage.

2. Austria agrees to take under its control all property, legal right and interests in Austria of persons, organizations or communitie which, individually or as members of groups, were the object of racial religious or other Nazi measures of persecution where, in the case o

Treaty, or where in the case of organizations and communities such organizations or communities have ceased to exist. Austria shall transfer such property, rights and interests to appropriate agencies or organizations to be designated by the Four Heads of Mission in Vienna by agreement with the Austrian Government to be used for the relief and rehabilitation of victims of persecution by the Axis Powers, it being understood that these provisions do not require Austria to make payments in foreign exchange or other transfers to foreign countries which would constitute a burden on the Austrian economy. Such transfer shall be effected within eighteen months from the coming into force of the present Treaty and shall include property, rights and interests required to be restored under paragraph 1 of this Article.

ARTICLE 27

Austrian Property in the Territory of the Allied and Associated Powers

1. The Allied and Associated Powers declare their intention to return Austrian property, rights and interests as they now exist in their territories or the proceeds arising out of the liquidation, disposal or realization of such property, rights or interests, subject to accrued taxes, expenses of administration, creditor claims and other like charges, where such property, rights or interests have been liquidated, disposed of or otherwise realized. The Allied and Associated Powers will be prepared to conclude agreements with the Austrian Government for this purpose.

2. Notwithstanding the foregoing provisions, the Federal Peoples' Republic of Yugoslavia shall have the right to seize, retain or liquidate Austrian property, rights and interests within Yugoslav territory on the coming into force of the present Treaty. The Government of Austria undertakes to compensate Austrian nationals whose property is taken under this paragraph.

ARTICLE 28

Debts

1. The Allied and Associated Powers recognize that interest payments and similar charges on Austrian Government securities falling due after 12th March, 1938, and before 8th May, 1945, constitute a claim on Germany and not on Austria.

2. The Allied and Associated Powers declare their intention not to avail themselves of the provisions of loan agreements made by the Government of Austria before 13th March, 1938, in so far as those provisions granted to the creditors a right of control over the government finances of Austria.

3. The existence of the state of war between the Allied and Associated Powers and Germany shall not, in itself, be regarded as affecting the obligation to pay pecuniary debts arising out of obligations and contracts that existed, and rights that were acquired before the existence of the state of war, which became payable prior to the coming

into force of the present Treaty, and which are due by the Government or nationals of Austria to the Government or nationals of one o the Allied and Associated Powers or are due by the Government o ationals of one of the Allied and Associated Powers to the Government or nationals of Austria.

4. Except as otherwise expressly provided in the present Treaty nothing therein shall be construed as impairing debtor-credito relationships arising out of contracts concluded at any time prior to 1s September, 1939, by either the Government of Austria or persons wh ere nationals of Austria on 12th March, 1938.

PART VI

General Economic Relations

ARTICLE 29

1. Pending the conclusion of commercial treaties or agreement between individual United Nations and Austria, the Government o Austria shall, during a period of eighteen months from the coming int force of the present Treaty, grant the following treatment to each o the United Nations which, in fact, reciprocally grants similar treatmen in like matters to Austria:

(a) In all that concerns duties and charges on importation o exportation, the internal taxation of imported goods and all regulations pertaining thereto, the United Nations shall be grante unconditional most-favored-nation treatment;

(b) In all other respects, Austria shall make no arbitrary discrimination against goods originating in or destined for any territory of any of the United Nations as compared with like good originating in or destined for territory of any other of the Unite Nations or of any other foreign country;

(c) United Nations nationals, including juridical persons, shal be granted national and most-favored-nation treatment in al matters pertaining to commerce, industry, shipping and othe forms of business activity within Austria. These provisions shal not apply to commercial aviation;

(d) Austria shall grant no exclusive or preferential rights t any country with regard to the operation of commercial aircraf in international traffic, shall afford all the United Nations equality of opportunity in obtaining international commercial aviatio rights in Austrian territory, including the right to land for refuelling and repair, and, with regard to the operation of commercia

Nations shall be understood to be subject to the exceptions customarily included in the commercial treaties concluded by that State.

PART VII

SETTLEMENT OF DISPUTES

ARTICLE 30

1. Any disputes which may arise in giving effect to the Article entitled "United Nations Property in Austria" of the present Treaty shall be referred to a Conciliation Commission established on a parity basis consisting of one representative of the Government of the United Nation concerned and one representative of the Government of Austria. If within three months after the dispute has been referred to the Conciliation Commission no agreement has been reached, either Government may ask for the addition to the Commission of a third member selected by mutual agreement of the two Governments from nationals of a third country. Should the two Governments fail to agree within two months on the selection of a third member of the Commission, either Government may request the Heads of the Diplomatic Missions in Vienna of the Soviet Union, of the United Kingdom, of the United States of America, and of France to make the appointment. If the Heads of Mission are unable to agree within a period of one month upon the appointment of a third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. When any Conciliation Commission is established under paragraph 1 of this Article, it shall have jurisdiction over all disputes which may thereafter arise between the United Nation concerned and Austria in the application or interpretation of the Article referred to in paragraph 1 of this Article and shall perform the functions attributed to it by those provisions.

3. Each Conciliation Commission shall determine its own procedure, adopting rules conforming to justice and equity.

4. Each Government shall pay the salary of the member of the Conciliation Commission whom it appoints and of any agent whom it may designate to represent it before the Commission. The salary of the third member shall be fixed by special agreement between the Governments concerned and this salary, together with the common expenses of each Commission, shall be paid in equal shares by the two Governments.

5. The parties undertake that their authorities shall furnish directly to the Conciliation Commission all assistance which may be within their power.

6. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

PART VIII

Miscellaneous Economic Provisions

ARTICLE 31

Provisions Relating to the Danube

Navigation on the Danube shall be free and open for the nationals vessels of commerce, and goods of all States, on a footing of equality in regard to port and navigation charges and conditions for merchant hipping. The foregoing shall not apply to traffic between ports of the same State.

ARTICLE 32

Transit Facilities

1. Austria shall facilitate as far as possible railway traffic in transit through its territory at reasonable rates and shall be prepared to onclude with neighboring States reciprocal agreements for this purpose.

2. The Allied and Associated Powers undertake to support incluion in the settlement in relation to Germany of provisions to facilitate transit and communication without customs duties or charges between Salzburg and Lofer (Salzburg) across the Reichenhall-Steinpass and between Scharnitz (Tyrol) and Ehrwald (Tyrol) via Garmisch-Partenkirchen.

ARTICLE 33

Scope of Application

The Articles entitled "United Nations Property in Austria" and "General Economic Relations" of the present Treaty shall apply to he Allied and Associated Powers and to those of the United Nations which had that status on 8th May, 1945, and whose diplomatic relations with Germany were broken off during the period between 1st September, 1939 and 1st January, 1945.

PART IX

Final Clauses

ARTICLE 34

Heads of Mission

Treaty.

2. The Four Heads of Mission will give the Government of Austria such guidance, technical advice and clarification as may be necessary to ensure the rapid and efficient execution of the present Treaty both in letter and in spirit.

3. The Government of Austria shall afford to the said Four Heads of Mission all necessary information and any assistance which they may require in the fulfillment of the tasks devolving on them under the present Treaty.

ARTICLE 35

Interpretation of the Treaty

1. Except where another procedure is specifically provided under any Article of the present Treaty, any dispute concerning the interpretation or execution of the Treaty which is not settled by direct diplomatic negotiations shall be referred to the Four Heads of Mission acting under Article 34, except that in this case the Heads of Mission will not be restricted by the time limit provided in that Article. Any such dispute not resolved by them within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred at the request of either party to the dispute to a Commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country. Should the two parties fail to agree within a period of one month upon the appointment of the third member, the Secretary-General of the United Nations may be requested by either party to make the appointment.

2. The decision of the majority of the members of the Commission shall be the decision of the Commission, and shall be accepted by the parties as definitive and binding.

ARTICLE 36

Force of Annexes

The provisions of the Annexes shall have force and effect as integral parts of the present Treaty.

ARTICLE 37

Accession to the Treaty

1. Any member of the United Nations which on 8th May, 1945 wa at war with Germany and which then had the status of a United Nation and is not a signatory to the present Treaty, may accede to the Treaty and upon accession shall be deemed to be an Associated Power for the purposes of the Treaty.[1]

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[1] As of Dec. 31, 1955, Czechoslovakia (Sept. 28, 1955) and Yugoslavia (Nov 28, 1955) had deposited instruments of accession to the treaty. Poland deposited

ment of the Union of Soviet Socialist Republics and shall take effect
pon deposit.

ARTICLE 38

Ratification of the Treaty

1. The present Treaty, of which the Russian, English, French and German texts are authentic, shall be ratified. It shall come into force immediately upon deposit of instruments of ratification by the Union f Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by the United States of America, and by France f the one part and by Austria of the other part. The instruments of ratification shall, in the shortest time possible, be deposited with the Government of the Union of Soviet Socialist Republics.

2. With respect to each Allied and Associated Power whose instrument of ratification is thereafter deposited, the Treaty shall come into force upon the date of deposit. The present Treaty shall be deposited in the archives of the Government of the Union of Soviet Socialist Republics, which shall furnish certified copies to each of the signatory and acceding States.

ANNEX I

DEFINITION AND LIST OF WAR MATÉRIEL

The term "war matériel" as used in the present Treaty shall include all arms, ammunition and implements specially designed or adapted for use in war as listed below.

The Allied and Associated Powers reserve the right to amend the list periodically by modification or addition in the light of subsequent scientific development.

Category I

1. Military rifles, carbines, revolvers and pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use.

2. Machine guns, military automatic or autoloading rifles, and machine-pistols; barrels for these weapons and other spare parts not readily adaptable for civilian use; machine gun mounts.

3. Guns, howitzers, mortars (*minenwerfer*), cannon special to aircraft, breechless or recoilless guns and flamethrowers; barrels and other spare parts not readily adaptable for civilian use; carriages and mountings for the foregoing.

4. Rocket projectors; launching and control mechanisms for self-propelling and guided missiles and projectiles; mountings for same.

5. Self-propelling and guided missiles, projectiles, rockets, fixed ammunition and cartridges, filled or unfilled, for the arms listed in sub-paragraphs 1–4 above, and fuses, tubes or contrivances to explode or operate them. Fuses required for civilian use are not included.

6. Grenades, bombs, torpedoes, mines, depth charges and incendiary

operating them. Fuses required for civilian use are not included.

7. Bayonets.

Category II

1. Armoured fighting vehicles; armoured trains, not technically convertible to civilian use.

2. Mechanical and self-propelled carriages for any of the weapons listed in Category I; special type military chassis or bodies other than those enumerated in sub-paragraph 1 above.

3. Armour plate, greater than three inches in thickness, used for protective purposes in warfare.

Category III

1. Aiming and computing devices for the preparation and control of fire, including predictors, and plotting apparatus, for fire control; direction of fire instruments; gun sights; bomb sights; fuse setters; equipment for the calibration of guns and fire control instruments.

2. Assault bridging, assault boats and storm boats.

3. Deceptive warfare, dazzle and decoy devices.

4. Personal war equipment of a specialized nature not readily adaptable to civilian use.

Category IV

1. Warships of all kinds, including converted vessels and craft designed or intended for their attendance or support, which cannot be technically reconverted to civilian use, as well as weapons, armour, ammunition, aircraft and all other equipment, material, machines and installations not used in peace time on ships other than warships.

2. Landing craft and amphibious vehicles or equipment of any kind; assault boats or devices of any type as well as catapults or other apparatus for launching or throwing aircraft, rockets, propelled weapons or any other missile, instruments or devices whether manned or unmanned, guided or uncontrolled.

3. Submersible or semi-submersible ships, craft, weapons, devices, or apparatus of any kind, including specially designed harbor defense booms, except as required by salvage, rescue or other civilian uses as well as all equipments, accessories, spare parts, experimental or training aids, instruments or installations as may be specially designed for the construction, testing, maintenance or housing of the same

Category V

1. Aircraft assembled or unassembled, both heavier and lighter than air, which are designed or adapted for aerial combat by the use of machine guns, rocket projectors or artillery, or for the carrying and dropping of bombs, or which are equipped with, or which by reason of their design or construction are prepared for, any of the appliances referred to in sub-paragraph 2 below.

2. Aerial gun mounts and frames, bomb racks, torpedo carriers and bomb release or torpedo release mechanisms; gun turrets and blisters.

3. Equipment specially designed for and used solely by airborne troops.

4. Catapults or launching apparatus for shipborne, land-or-sea-based aircraft; apparatus for launching aircraft weapons.

5. Barrage balloons.

Category VI

Asphyxiating, vesicant, lethal, toxic or incapacitating substances intended for war purposes, or manufactured in excess of civilian requirements.

Category VII

Propellants, explosives, pyrotechnics or liquified gases destined for propulsion, explosion, charging, or filling of, or for use in connection with, the war matériel in the present categories, not capable of civilian use or manufactured in excess of civilian requirements.

Category VIII

Factory and tool equipment specially designed for the production and maintenance of the matériel enumerated above and not technically convertible to civilian use.

ANNEX II

Having regard to the arrangements made between the Soviet Union and Austria, and recorded in the Memorandum signed at Moscow on April 15, 1955,[1] Article 22 of the present Treaty shall have effect subject to the following provisions:

> 1. On the basis of the pertinent economic provisions of the April 15, 1955 arrangements between the Soviet Union and Austria, the Soviet Union will transfer to Austria within two months from the date of entry into force of the present Treaty all property, rights and interests to be retained or received by it in accordance with Article 22, except the Danube Shipping Company (D. D. S. G.) assets in Hungary, Roumania and Bulgaria.
>
> 2. It is agreed that in respect of any property, right or interest transferred to Austria in accordance with this Annex, Austria's rights shall be limited only in the manner set out in paragraph 13 of Article 22.

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[1] S. Exec. G, 84th Cong., 1st sess., pp. 42–43.

I

I have the honor to submit to you the Austrian State Treaty, with a view to transmission to the Senate for its advice and consent to the ratification thereof. There is also transmitted herewith a summary of the treaty, which outlines the subjects dealt with therein.

This treaty was signed at Vienna on May 15, 1955, by Austria, France, the United Kingdom, the Union of Soviet Socialist Republics, and the United States of America. This marked the completion of over 8 years of arduous negotiation by the United States, the United Kingdom, and France with the Soviet Union. When the treaty comes into force, it will redeem one of the major war pledges made by the Allies, namely, that expressed in the Moscow Declaration of November 1, 1943,[2] that Austria should be made "free and independent."

II

It is of interest, I believe, to review the history of the Austrian Treaty negotiations.

By the Moscow Declaration above referred to, the Governments of the United States, the United Kingdom, and the Soviet Union expressed agreement—

> that Austria, the first free country to fall a victim to Hitlerite aggression, shall be liberated from German domination.

The three Governments, on this occasion, further declared that they wished—

> to see reestablished a free and independent Austria, and thereby to open the way for the Austrian people themselves, as well as those neighboring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.

The French Committee for National Liberation, on behalf of France, adhered to the Moscow Declaration 2 weeks later.

Secretary of State Byrnes first urged consideration of an Austrian Treaty in April 1946 at the Council of Foreign Ministers in Paris.[3] The British and French Foreign Ministers agreed, but Soviet Foreign Minister Molotov objected, giving as his reason that he had not had time to consider it. The Soviet Government finally agreed, however, at the Council of Foreign Ministers' meeting in New York, in the fall of 1946, to a United States proposal for the appointment of special Austrian Treaty Deputies.[4] They reported to the Council of Foreign Ministers at their meeting held in Moscow in the spring of 1947.[5] At that time considerable progress was recorded. However,

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[1] S. Exec. G, 84th Cong., 1st sess., pp. 2–7.

[2] *A Decade of American Foreign Policy*, p. 11.

[3] *Ibid.*, pp. 72–79.

[4] *Ibid.*, pp. 92–97.

[5] *Ibid.*, pp. 97–106.

meetings of the Deputies, it was not until the Paris meeting of the Council of Foreign Ministers in 1949 [1] that any further substantial progress was made toward the conclusion of the treaty.

At that time the principal obstacle was the issue of so-called "German assets" in the Soviet Zone of Austria. These the Soviet Government had seized and operated for its own benefit, under the Potsdam Agreement of 1945,[2] which, while not permitting "reparations" to be exacted from Austria, made provision for the use of "German foreign assets" located in Eastern Austria as one of the sources of reparations from Germany. These Soviet seizures comprised, in the main, oil and shipping properties and some 300 business and industrial enterprises, control of which the Soviet Government was unwilling to relinquish. The Governments of the United States, the United Kingdom, and France had, on their part, indicated a willingness to turn over to Austria all "German assets" in the Western Zones of Austria.

The issue of German assets and other controversial issues appeared to have been resolved at the Paris meeting, and the Foreign Ministers, in June 1949, directed the Treaty Deputies to resume their work promptly for the purpose of reaching agreement not later than September 1, 1949, on the draft treaty as a whole. On the question of German assets, the 1949 Foreign Ministers' agreement provided for the relinquishment to Austria of all properties held or claimed as German assets, with the exception of oil and shipping properties which were to remain under Soviet control for a specific number of years. The Austrian Government would be required to pay $150 million to the Soviet Government, over a period of 6 years, for the properties it was to receive under this agreement.

Despite persistent efforts on the part of the Governments of the United States, the United Kingdom, and France to conclude a treaty on the basis of the 1949 agreement, these efforts failed because of Soviet insistence on writing into the treaty provisions which went beyond the terms of the 1949 agreement. By the end of 1949 agreement was finally reached on the German assets question and only five articles of the treaty remained unagreed. However, one excuse after another was used by Soviet representatives to delay final action on the treaty, and it became apparent that the Soviet Government was basically unwilling to grant Austria its promised freedom. It was unwilling to withdraw its troops from Austria or to give up the benefits it had been deriving from the Austrian economy since 1945. At one point in the negotiations the Soviet Government prevented further progress by refusing to agree to an article in the draft treaty in the exact terms which it had itself proposed.

In an effort to break the deadlock over the negotiations and to provide Austria the freedom promised in the Moscow Declaration of 1943, the Government of the United States drafted and, with the

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[1] *Ibid.*, pp. 110–114.

[2] *Ibid.*, pp. 34–48.

the United Kingdom and France, submitted to the Soviet Government on March 13, 1952, a short treaty of but eight articles [1] (the long-draft State Treaty had contained more than 60 articles plus a number of annexes), providing in the simplest possible terms for the reestablishment of a free and independent Austrian State. This United States proposal included provisions for the relinquishment to Austria of all property, real and personal, of whatever description, held or claimed by the occupying powers as German assets or war booty in Austria. The Soviet Government refused to participate in any meetings or even to discuss the Austrian Treaty until this proposal had been withdrawn. In the hope of resuming negotiations, the Western Powers finally agreed to revert to the long-draft State Treaty, but the Soviet Government continued its refusal to negotiate.

Austria submitted its case to the United Nations in the summer o 1952, and the response of that organization was prompt and firm. By a resolution proposed by Brazil and adopted on December 20, 1952,[2] by a vote of 48–0 (the Soviet Union abstained), the United Nations General Assembly called upon the Governments concerned t make a renewed and urgent effort to terminate the occupation and restore Austria's full sovereignty. Despite the persistent efforts of the Governments of the United States, the United Kingdom, and France recorded in UNGA Document No. A/2798, November 22, 1954, the Government of the Soviet Union continued unwilling to give seriou consideration to the conclusion of the Austrian Treaty, and it was no until the meeting of the Foreign Ministers in Berlin in 1954 that the Soviet Government was willing to resume discussion of the question

Negotiations were renewed at Berlin, in February 1954, with Austrian participation.[3] The Soviet Foreign Minister raised insurmountable objections, however, to the conclusion of a treaty in terms whic would have granted Austria its long-promised freedom. He continue to do so even though the Western Allies proposed acceptance of th Soviet version of the then unagreed articles of the treaty, and despit the fact that Austria declared that it would exercise its freedom t follow a path of neutrality. In that connection I declared on behal of the United States that such a free choice by Austria would b respected by the United States.[4] Nevertheless, the Soviet Foreig Minister refused to agree to the withdrawal of the Soviet armed force at any specified date and insisted upon the right to retain the Re Armies in Austria, after the treaty came into force, for a period tha the Soviet Union could have indefinitely prolonged.[5]

The Soviet proposals were unacceptable to the Austrian Government or the Governments of the United States, the United Kingdom any constructive accomplishment with reference to the Austria State Treaty.

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[1] *Infra*, pp. 1829–1832.

[2] General Assembly Res. 613 (VII), Dec. 20, 1952; *infra*, pp. 1834–1835.

[3] See *infra*, pp. 1850–1871.

[4] See Secretary Dulles' statement of Feb. 13, 1954; *infra*, pp. 1858–1861.

[5] See Mr. Molotov's statement of Feb. 14, 1954; *Foreign Ministers Meetin Berlin Discussions, January 25–February 18, 1954* (Department of State publication 5399; 1954), pp. 196–197.

III

At the conclusion of the Berlin Conference in 1954, the attainmen by Austria of its freedom was not foreseeable. The Austrian Treat had been considered and discussed at 379 separate sessions of th Foreign Ministers, Treaty Commission, and Treaty Deputies, but th Soviet Government remained unwilling to fulfill the pledge which i had made in the Moscow Declaration of 1943, and Austria continue to endure foreign occupation and exploitation.

In 1955, a change of Soviet policy with respect to Austria occurred The Soviet Government suddenly became willing to conclude a Austrian Treaty. Austrian Chancellor Raab, at Soviet invitation visited Moscow in April of this year and the resultant Soviet-Austria understanding, recorded in a memorandum of agreement, dated Apri 15, 1955,[1] provided the immediate impetus for agreement on th Austrian Treaty. The text of this memorandum is attached hereto

The cause of this change of policy on the part of the Soviet Govern ment can only be conjectured. Certainly it is not without significanc that this change coincided with assurance that the Paris pacts[3] woul be ratified, Western Europe consolidated, and a free and independen Federal Republic of Germany brought into NATO.

The reversal of Soviet policy regarding Austria is highly significan It will involve the first withdrawal in Europe of Soviet troops fror the forward positions which they occupied in 1945. Also, this libera tion of Austria will open new frontiers of freedom with Czechoslovaki and with Hungary and otherwise set an example which will stimulat the aspirations of other peoples for a freedom which has not yet bee realized.

IV

The treaty herewith submitted is a much more satisfactory instru ment than the draft treaty as it existed following the 1949 negotiations Provisions of that draft which were either obsolete or in derogatio of Austrian sovereignty were eliminated during the final days of th negotiations in Vienna.

The treaty calls for the ending of the occupation and the reestablish ment of Austria, within the borders as they existed on January 1 1938, as a sovereign, independent, and democratic State. All occupa tion troops will be withdrawn within 90 days after the coming int force of the treaty, and so far as possible not later than December 31 1955. The signatories of the treaty declare their intention to respec Austria's independence and territorial integrity as established by th treaty. Anschluss with Germany is prohibited.

In general, the treaty conforms to the principles put forward b the United States in the short treaty draft of 1952, in that it provide ment of the United States. Under the terms of the treaty the Soviet Government will relinquish all control over the extensive oil and shipping properties, other business and industrial enterprises and agricultural lands which it now operates and controls in Austria. The Austrian Government has agreed to compensate the Soviet Government for the properties thus relinquished. Under the terms of the treaty and of the Soviet-Austrian memorandum of April 15, 1955, Austria will pay to the Soviet Government $150 million in goods over a period of 6 years for the return to Austrian control of German assets in Austria other than oil and shipping properties, 1 million tons of crude oil annually for a period of 10 years for the return of the oil properties, and $2 million for the return of the Danube Shipping Co. properties in Eastern Austria.

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[1] S. Exec. G, 84th Cong., 1st sess., pp. 42–43.

[2] Not reprinted here.

One article of the draft treaty (then known as art. 16) had given rise to apprehension that Soviet pressures would be exercised to compel the repatriation of displaced persons and refugees in Austria. The elimination of this article was requested by the Austrian Government, with the full support of the Governments of the United States, the United Kingdom, and France. The Soviet Government finally acquiesced in the deletion of this article.

Limitations which would have been imposed upon the size of Austrian armed forces were removed from the treaty. The treaty thus leaves Austria free to devote her full capabilities to defense o her independence.

V

The Austrian Government has indicated an intention to declare its perpetual neutrality and not to join any military alliances or permi any military bases on its territory.[1] It is anticipated that the Austrian declaration of neutrality will be given effect by constitutional action of the Austrian Parliament. The Austrian Government plans to seek international recognition of its neutral status.

The Austrian Government has indicated its intention to defend Austrian neutrality with armed force. It does not plan or seek a demilitarized status but rather plans to be prepared to defend and preserve its newly won freedom by all the resources at its command.

Those who have observed the conduct and demeanor of the Austrian people during recent years can, I think, have little doubt that this present intention of the Austrian Government will become the permanent will of the Austrian people. They have shown a courage and steadfastness which is remarkable in the face of repeated disappointments of their hopes. Despite, or perhaps because of, the occupation of much of their land by the Soviet Union and despite intensive efforts by the Soviet Communists in developing a Communist Party in Austria, that party has never been able to rally more than 5 percent of the vote. Despite the drain year after year o courageously and skillfully rebuilt the economy which was left to them. They have never succumbed to the temptation to accept a treaty which gave them less than genuine freedom and independence. This record enables one confidently to place faith in the resolution of the Austrian people to preserve their freedom and independence for the future.

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[1] The declaration was made in a note of Nov. 14, 1955 (Department of Stat *Bulletin,* Dec. 19, 1955, pp. 1011–1012); see also the reply of the United States o Dec. 6, 1955 (*infra,* pp. 1777–1778).

The Soviet Foreign Minister proposed in Vienna a four-power undertaking to respect and observe Austria's intended declaration of neutrality. I stated that the United States would have no objection in principle to expressing an intention to respect Austria's neutrality, as I had already said at Berlin in February 1954. Such respect is indeed enjoined upon us by the United Nations Charter. For example, article 2 (4) of the charter requires all members to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state. However, I said that any final formulation of our position in this regard would have to be deferred pending action by the Austrian Parliament, at which time it will be possible to consider the form and content of the declaration.

The Soviet-Austrian agreement of April 15, 1955, referred to above, specifies a desire on the part of Austria for a guaranty by the Governments of the United States, the United Kingdom, France, and the Soviet Union of the inviolability and integrity of Austria's territory. This desire on the part of the Austrian Government is understandable, but the Government of the United States has made no commitment with respect thereto. It should, moreover, be clearly understood that none of the signatory powers to the treaty conditioned the conclusion of the Austrian Treaty or the implementation thereof on a guaranty of Austria's territorial integrity.

The Senate of the United States would be fully informed and consulted with respect to any further developments in this connection.

VI

You will recall, Mr. President, that in your address before the American Society of Newspaper Editors on April 16, 1953,[1] you referred to the efforts made by the Government of the United States to speed conclusion of the Austrian Treaty and cited Soviet signature of the Austrian Treaty as one example of how the Soviet Government could attest by deeds the sincerity of its claimed peaceful purposes. The Austrian Treaty having now at last been signed, I cannot fail to express the hope that this is but the beginning and that the Soviet Government will, in other directions, join in making a real effort to find acceptable solutions for the many problems still requiring attention.

VII

I recommend, Mr. President, that you request early consideration by the Senate of this matter with a view to obtaining the advice and

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[1] S [illegible] 65-71

Such action is, in my opinion, in the best interests of this Government.

Respectfully submitted,

JOHN FOSTER DULLES.

26. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, JUNE 15, 1955[1]

The Committee on Foreign Relations, having had under consideration the Austrian State Treaty, signed at Vienna on May 15, 1955 (Ex. G, 84th Cong., 1st sess.), unanimously reports the treaty to the Senate and recommends that it give its advice and consent to ratification thereof.

1. MAIN PURPOSE OF TREATY

The pending treaty, to which Austria, France, the Soviet Union, the United Kingdom, and the United States are parties, reestablishes Austria as a sovereign, independent, democratic state, thus redeeming the pledge of the Moscow Declaration of 1943 that Austria should be made free and independent. The treaty, among other things, prohibits any future political or economic union between Austria and Germany; fixes the frontiers of Austria as those existing prior to the Anschluss of 1938; limits certain types of weapons which Austria is not to construct or possess; provides for the withdrawal of the forces of the Allied Powers within 90 days after the treaty comes into force; prescribes the disposition of German assets in Austria; renounces certain claims by Austria on Germany and on the Allied and Associated Powers; provides for restoration of legal rights and interests of the United Nations and their nationals; and makes temporary provisions relating to the economic relations of Austria with other nations.

2. COMMITTEE ACTION

The Austrian State Treaty was signed at Vienna, May 15, 1955, and transmitted to the Senate on June 1, 1955. The Committee on Foreign Relations has followed the long tortuous negotiations over the years through the reports of the Secretaries of State on the progress or lack of progress made at Foreign Ministers' meetings on the treaty. When Soviet obstructionism finally virtually ceased this spring, and it appeared likely that agreement on a treaty on the basis of the Austria-Soviet Union memorandum of April 15, 1955, could be obtained, the Honorable Livingston T. Merchant, Assistant Secretary of State for European Affairs, discussed the draft treaty with the Consultative Subcommittee on European Affairs[2] on May 3, 1955.

Inasmuch as the committee was generally familiar with the problems and provisions of the treaty, and these negotiations have drawn out

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[1] S. Exec. Rept. No. 8, 84th Cong., 1st sess.

[2] Senators John J. Sparkman, Hubert Humphrey, Michael J. Mansfield, Alexander Wiley, H. Alexander Smith, and William F. Langer.

Secretary of State Dulles testified and, after discussion in executive session on June 14, voted unanimously to report the treaty to the Senate for favorable action.

The committee was informed that Austria has already ratified the treaty and there have been unofficial reports that the Soviet Union has done likewise. The United Kingdom and France are expected to act during the summer.[2] Action by the United States during this ession of Congress will enable Austria to regain her independence before the end of the year.

3. BACKGROUND INFORMATION ON AUSTRIA

(*a*) *Description*

Austria is a mountainous country, of about 32,300 square miles comparable to the size of Maine or South Carolina. It is bounded by Germany and Czechoslovakia to the north, Hungary to the east Yugoslavia and Italy to the south, and Switzerland to the west About half of Austria's 1,648-mile frontier is with Communist-controlled areas. Austria, therefore, forms a salient into Eastern Europe.

Austria's population of 7 million is 95.3 percent German-speaking and 89 percent Catholic. The capital city of Vienna, with its 1,700,000 inhabitants, accounts for more than one-fourth of the population

Austria is primarily an industrial nation, with agriculture employing nly about one-third of the population. Metallurgy, textiles, engieering, and wood are the major industries. Among important natural resources are iron ore, coal, copper, lead, zinc, bauxite, graphite sulfur, manganese, and petroleum.

(*b*) *History*

The Austro-Hungarian Empire, which encompassed Austria Hungary, and portions of Czechoslovakia, Poland, Rumania, Yugoslavia, and Italy, was dismembered in 1918 at the end of World War I Austria became a Republic at that time and its boundaries were set by the Treaty of St. Germain.[3]

Austrian independence came to an end on March 13, 1938, when Nazi troops moved in and Hitler proclaimed its union with Germany in the so-called Anschluss. The Anschluss was never recognized by he United States, which took care to avoid any steps that might be onsidered as constituting de jure recognition of the annexation

(*c*) *Wartime agreements*

As a part of Germany, Austria was plunged into World War II Austria did not declare war against any of the United Nations nor

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[1] *The Austrian State Treaty: Hearings before the Committee on Foreign Relations United States Senate, 84th Cong., 1st sess.*

[2] Austria deposited its instrument of ratification June 14, 1955; the U. S. S. R July 5, 1955; the United Kingdom, July 19, 1955; and France, July 27, 1955.

[3] Treaty of Sept. 10, 1949; *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States of America and Other Powers, 1910-1923*, vol. III (Washington [1923]), pp. 3149 ff.

of Nazi aggression was emphasized by the United Kingdom, U. S. S. R., and United States declaration on Austria, made at Moscow on November 1, 1943, which reads as follows:

DECLARATION ON AUSTRIA, NOVEMBER 1, 1943, AT MOSCOW

> The Governments of the United Kingdom, the Soviet Union and the United States of America are agreed that Austria, the first free country to fall a victim to Hitlerite aggression, shall be liberated from German domination.
>
> They regard the annexation imposed upon Austria by Germany on March 15th 1938, as null and void. They consider themselves as in no way bound by any changes effected in Austria since that date. They declare that they wish to see reestablished a free and independent Austria, and thereby to open the way for the Austrian people themselves, as well as those neighboring states which will be faced with similar problems, to find that political and economic security which is the only basis for lasting peace.
>
> Austria is reminded, however, that she has a responsibility which she cannot evade for participation in the war on the side of Hitlerite Germany, and that in the final settlement account will inevitably be taken of her own contribution to her liberation.

At Potsdam in 1945 the Soviet Union, the United Kingdom, and the United States agreed that "reparations should not be exacted from Austria."[1] France associated herself with both of these declarations.

(*d*) *Occupation*

In May 1945 Allied troops occupied Austria in four zones and her pre-1938 boundaries were restored. Dr. Karl Renner set up a provisional government, which was given a popular mandate in the elections of November 1945. The occupation powers recognized this Government, headed by Dr. Renner as President and Leopold Figl as Chancellor, on January 7, 1946.[2] This act did not affect the occupation, which had been set up by agreements of July 9, 1945.[3] Althoug the objectives of the occupation—demilitarization, denazification, restitution of allied property, return of allied prisoners of war, care o displaced persons, and punishment of war criminals—were achieve shortly, failure of the occupation powers to agree on the terms for a Austrian Treaty resulted in the continuation of the occupation.

(*e*) *Political developments*

Austria has had a coalition government since the first nationa elections of 1945. The coalition is formed by the People's Party an the Socialist Party, the two major political parties in Austria. Bot have been thoroughly anti-Communist and devoted to democrati principles. This coalition was maintained in power at nationa elections in 1949 and 1953. At present, the coalition controls 14 seats out of 165 in the Austrian Parliament. Communist Part strength in Austria is negligible. In the 3 postwar elections, th Communists received between 5 and 5½ percent of the total vote an from 4 to 5 seats in the Parliament.

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[1] Section VII of the Protocol of Proceedings of the Berlin Conference; *Decade of American Foreign Policy*, p. 42.

[2] *Ibid.*, p. 614.

[3] *Ibid.*, pp. 610-612.

has basically a two-party system with both parties in the western tradition. Communist Party efforts to exert influence in Austrian politics will undoubtedly increase after the restoration of independence but since Austria has endured a Soviet occupation it can be expected that these efforts will not be successful.

4. SOVIET OBSTRUCTIVE TACTICS ON TREATY

The history of the Austrian Treaty negotiations is a study of frustrations in dealing with the Soviet Union.[1] The United States took the lead in 1946 to have the treaty included on the agenda of the Foreign Ministers' meetings. After much temporizing by the Soviet Union, the treaty was finally placed on the agenda only to meet with more delaying tactics. In attempts to clarify Soviet demands, the Deputies of the Foreign Ministers, a special treaty commission, and intermittently the Council of Foreign Ministers itself, wrestled with the issue from 1947 to 1954. In all, the treaty had been discussed at 379 separate sessions of these bodies by the end of 1954.

At first, the Soviet Union maintained that it was not ready to discuss the treaty. Then it maintained that Austria was not ready for independence. After those excuses became implausible, irrelevant side issues (the status of Trieste, the so-called "dried pea debt," and the alleged resurgence of nazism and militarism) were posed and had to be disposed of. A few times it seemed that apparent agreement had been reached or would be reached shortly, only to have these hopes dashed subsequently. In efforts to break this stalemate, the United States proposed a short simple treaty in place of the complex sixty-odd-article draft on which the Soviet Union kept shifting ground The United Nations General Assembly in 1952 by a vote of 48–0 (Soviet bloc abstaining) called upon the occupation powers to make a renewed and urgent effort to terminate the occupation and restore Austrian independence. Neither effort caused the Soviet Union to change its position.

Regarding the treaty provisions themselves, the greatest controversy centered around so-called "German assets" in Austria (in particular oil fields and refineries, the Danube Shipping Co., and some 300 business and industrial enterprises), and the withdrawal of Allied troops These, and other issues are more fully discussed elsewhere in this report.

In 1955, Soviet policy underwent a sudden change. On March 25 1955, Austrian Chancellor Raab was invited to Moscow to discuss the areas of disagreement. On May 15, the treaty was signed by the four occupation powers and Austria. In the space of 7 weeks, between the Soviet invitation and the signing, every obstacle thrown up during the previous 7 years was withdrawn or compromised by the Soviet Union, and a treaty acceptable to the Western Powers and Austria was signed.

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[1] For annotation of the developments mentioned in this section of the Senate Committee's report, see section II of the report by the Secretary of State; *supra* pp 676–679.

mented as follows on this drastic reversal:

> The cause of this change of policy on the part of the Soviet Government ca only be conjectured. Certainly it is not without significance that this chang coincided with assurance that the Paris pacts would be ratified, Western Europ consolidated, and a free and independent Federal Republic of Germany brough into NATO.
>
> The reversal of Soviet policy regarding Austria is highly significant. It wil involve the first withdrawal in Europe of Soviet troops from the forward position which they occupied in 1945. Also, this liberation of Austria will open ne frontiers of freedom with Czechoslovakia and with Hungary and otherwise se an example which will stimulate the aspiration of other peoples for a freedo which has not yet been realized.

5. THE PRICE FOR AUSTRIAN INDEPENDENCE

The Potsdam Agreement of August 1945 provided that reparation for the Allied and Associated Powers would be permitted from "appropriate German external assets." France, the United Kingdom and the United States interpreted this provision within their zones a applying to properties legitimately owned by the German Governmen and German nationals as of May 8, 1945. The Soviet Government however, applied this provision in the Soviet zone to a wide range o properties seized by Germany after Anschluss through force an duress, to properties owned by the Austrian Government, and to property in Austria owned by nationals of other nations. The Soviet Government immediately began dismantling factories and shipping the to the Soviet Union. It has been estimated that during the first yea of peace, the total Soviet seizures of equipment alone in Austria ra to some 63,778 pieces. During the years since the war the Soviet drai on that part of Austria occupied by Soviet forces has continued. I addition, the Secretary of State testified[1] that over $500 million wort of oil has been taken by the Soviet Union over the past 10 years. A early as 1947 it was estimated that the Soviets had seized in Austri more than 300 enterprises valued at about $700 million.

The value of the properties taken by the Soviet Government durin this period will probably never be known, but it would be fair t estimate that the figure exceeds $1 billion.

During this same period of time while the Soviet Union was lootin Austria, the other Allied Powers, and the United States in particular have been giving assistance to Austria to help maintain condition there conducive to an orderly recovery from the damages of war Secretary Dulles estimated in testimony before the committee tha the United States has given Austria about $1.25 billion between 194 and 1955.

The committee is convinced that the Austrian people recogniz that their successful efforts to stave off the economic disintegratio promoted by the Soviet Union were made possible largely by th assistance they have received from their friends in the West.

The Soviet Union has not been satisfied, however, by the more tha as one price for the pending treaty, insisted upon the imposition o additional burdens upon the Austrian economy which will run over th next 10 years. While the Soviet Union under the terms of the treat (art. 22) will surrender all control over extensive oil and shippin properties as well as over other industrial and business enterprises the Austrian Government has agreed: (1) to pay the Soviet $15 million in goods over a 6-year period; (2) to supply 1 million tons of oi per year for the next 10 years with a total value of about $170 million and (3) to pay $2 million for the return to Austria of the Danub Shipping Co. properties in eastern Austria. Thus, Austria is stil obligated to pay the equivalent of more than $300 million additiona to the Soviet Union after the treaty becomes effective.

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[1] See *The Austrian State Treaty: Hearings before the Committee on Foreig Relations, United States Senate, 84th Cong.*

While the committee realizes that freedom and independence for nation is not subject to monetary evaluation, it nevertheless wants t draw to the attention of the Senate, of the American people who hav indirectly borne much of this burden, and of the Austrian people an Government that Soviet occupation of Austria—the first free countr to fall victim to Hitlerite aggression—was used to drain that natio of much of its wealth and natural resources to the everlasting detriment of its people.

6. AUSTRIAN NEUTRALITY

The memorandum of agreement of April 15, 1955, between Austri and the Soviet Union, by which the Soviet Government undertoo to sign the Austrian State Treaty without delay, stated that th Soviet Government was "prepared to recognize the declaration concerning the neutrality of Austria" and was "prepared to participat in a guaranty by the Four Powers of the inviolability and integrit of the Austrian State Territory—according to the model of Switzerland." This constituted acceptance by the Soviet Union of a proposition first put forth by Austria at the Berlin Conference in 1954, whe Austria declared its willingness to agree that it would join no militar alliances and would permit no foreign military bases on its territor if the Soviet Union would agree to the treaty.[1]

There is, however, no statement in the treaty with respect to th neutrality of Austria, since it was understood that adoption of th status of neutrality should be a voluntary act of a free state and no imposed as a treaty provision.

The Austrian Parliament has adopted a declaration of neutrality which it intends to give legal effect by amendment of the Austria Constitution.[2] The Austrian Government also intends to seek international recognition of its neutral status. With respect to this matter the Secretary of State indicated that it was the position of the Unite States that article 2 (4) of the United Nations Charter requires mem

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[1] See Dr. Figl's statement of Feb. 16, 1954; *Foreign Ministers Meeting: Berli Discussions, January 25–February 18, 1954* (Department of State publicatio 5399; 1954), pp. 200–212.

[2] The Austrian Parliament adopted this amendment Oct. 26, 1955, to tak effect Nov. 5, 1955. For the text of the amendment, see the Department o

of force against the territorial integrity or political
any state. The Secretary of State has stated that "a
tion of our position in this regard would have to be
action by the Austrian Parliament" at which time c
be given to the form and content of any declaratio
appropriate.

Subsequent to the submission of the pending treat
the Austrian Parliament has approved the followin
respect to Austria's future neutral status:

AUSTRIAN NEUTRALITY RESOLUTION

Austria declares, with the object of the lasting and perpet
her independence from without and the inviolability of her t
in the interest of maintenance of internal law and order, of h
perpetual neutrality, and is resolved to maintain and defend i
her disposal.

Austria, in order to secure these, will in the future, join no m
will not permit the establishment of military bases of foreign sta

Austria, in this connection, declares her desire to observe
relations with other states the principles laid down in the Unite
and once again voices her willingness and ability to accede
obligations contained in the charter.

In addition, the Federal Government is requested—

To submit to the Nationalrat (Parliament) the draft of
tional law regulating the neutrality;

To take all steps in order to achieve the final admission
of the United Nations, for which Austria has already app

To inform all states of this law with the request for reco
neutrality as soon as the Austrian State Treaty has ente
Austria has been evacuated of the occupation forces.

Article 2 of the State Treaty sets forth the declarat
and Associated Powers that they "will respect the in
territorial integrity of Austria . . . ." In this con
has expressed a desire that the Four Powers guarantee
and integrity of Austrian territory. Secretary Dulles
ever, that "none of the signatory powers to the treat
conclusion of the Austrian Treaty or the implementa
guaranty of Austria's territorial integrity." He indic
no commitment has been made by the United States
respect to this matter.

This position was taken in view of the constitution
would be involved in the United States since any s
of the territorial integrity of a foreign state might co
the use of armed force should such territory be subj
attack. The Secretary of State has informed the
"would be fully informed and consulted with respec
developments in this connection."

7. MEMBERSHIP IN THE UNITED NATIO

Reference in the Austrian-Soviet memorandum o
neutrality of Austria, "according to the model
caused members of the committee to raise questio

approve Austria's application for membership in the United Nations

The committee was satisfied that there would be no legal basis in the treaty for Soviet rejection of an Austrian application for admission to the United Nations. The treaty itself contains no reference to the Swiss model with respect to neutrality. Moreover, the preambl to the Austrian State Treaty states that one of the reasons for it conclusion is to enable "the Allied and Associated Powers to suppor Austria's application for admission to the United Nations Organization." The Austrians themselves, as indicated in the foregoing neutrality resolution, have expressed their willingness to accept the obligations of United Nations membership.

Nevertheless, it must be recalled that the Soviet Union has already twice vetoed Austria's application for United Nations membership although in recent years, it has been willing to include Austria in proposals for simultaneous admission of groups of states.

Secretary Dulles, when questioned on this point during committee hearings, noted that while the Soviet Union has not honored simila preambles relating to admission of states to the United Nations, i was his hope in this case that—

> as indicative of its apparent desire to show that it is turning over a new leaf, th Soviet Union might perhaps at this time honor that indication of the preamble that Austria should be a member of the United Nations.

8. TROOP WITHDRAWALS

United States troops, as well as the troops of France, the Sovie Union, and the United Kingdom, have been stationed in Austria sinc the war. In recent years the number of troops maintained in Austria by the Western Powers has been small. Article 20 of the treaty provides that—

> the forces of the Allied and Associated Powers . . . shall be withdrawn from Austria within ninety days from the coming into force of the present Treaty, an insofar as possible not later than 31st December 1955.

Since the Austrian Government has already ratified the treaty, and steps are underway for ratification in the near future by the Fou Powers, it is expected that Allied troops will be withdrawn well befor the end of the year.

9. AUSTRIAN ARMED FORCES

Withdrawal of Allied forces raises the question of whether the Austrian Government will be ready in the near future to provide it own minimum forces for defense purposes. As soon as the treaty comes into effect, Austria will be free to establish its own army a there are no restrictions in the treaty with respect to the size of th standing army, the size of the trained reserve, or the quantity of supplies of military equipment which Austria may have on hand. As a practical matter, however, Austria will not be able economically to support a large military establishment and statements have been issued by the Austrian authorities indicating that their forces would voluntary forces.

Since the war Austria has been prohibited from manufacturing military equipment. It is considered likely therefore that it will request limited amounts of outside military assistance as soon as the treaty comes into effect. The Secretary of State was asked during the hearings whether it is contemplated that the United States would furnish arms to Austria. Mr. Dulles replied:

> If that is requested, and we think it will be, it is contemplated that we would give some assistance to the Austrians in equipping the forces which they are allowed to have under the treaty.

There are provisions in the treaty imposing limitations on Austrian manufacture, possession, or experiment with some types of modern armaments including atomic weapons, guided missiles, submarines, etc.

Even though Austria has declared its intention of maintaining a status of neutrality, it is essential in the opinion of the committee that Austria not become a military vacuum. At the same time, Austria should not develop military forces that might be considered a danger to its neighbors. Although there are no limitations on the size of potential Austrian armed forces, the committee is convinced that the Austrian Government and people are dedicated to those democratic concepts that will automatically serve as a deterrent to aggressive action on the part of Austria.

10. WITHDRAWAL OF SOVIET FORCES FROM SATELLITES

Article 21 of the Treaty of Peace with Rumania[1] provided that Allied forces were to be withdrawn from Rumania within 90 days subject to the right of the Soviet Union to maintain troops in Rumania on the line of communication with its occupation forces in Austria. Article 22 of the Treaty of Peace with Hungary[2] contains a similar provision.

When the State Treaty with Austria comes into effect, there will no longer be a peace-treaty basis for the Soviet Union to maintain its troops in Rumania and Hungary to protect its lines of communication to Austria.

The committee asked the Secretary of State whether steps will be taken to ascertain whether Soviet troops will be withdrawn from these countries in compliance with the terms of the peace treaties. Mr Dulles recalled that some provisions of the treaties of peace with Rumania and Hungary, as well as Bulgaria, have been flagrantly violated in the past. He stated, however, that the Department i actively studying "to see what basis we have for asking for the withdrawal of troops" since "one consequence of the making of the treaty should be withdrawal of Soviet troops from Hungary and Rumania."

The committee fully supports the Department of State in its effort to seek full compliance with those provisions of these treaties relating not only to the withdrawal of Soviet troops from Rumania and Hun forces which Rumania, and Hungary, and Bulgaria as well, may maintain.

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[1] TIAS 1649; 61 Stat., pt. 2, p. 1757.

[2] TIAS 1651; 61 Stat., pt. 2, p. 2065.

11. GERMAN ASSETS

As noted earlier in this report, one of the most troublesome problems in connection with negotiation of the Austrian State Treaty has concerned the disposal of German assets in Austria. Since the Anschluss the German Government and German nationals had acquired extensive properties in Austria—sometimes legitimately and sometimes by various methods of duress, seizure, and confiscation. At the Potsdam Conference in 1945 it was agreed that the Four Powers could satisfy their reparations claims against Germany in part from German external assets, including such assets in Austria.[1] This right is confirmed in the first paragraph of article 22 of the pending treaty.

Difficulties relating to these German assets in Austria have arisen out of differing interpretations as to what might properly be included as such assets and differing policies relating to their treatment Within the Soviet zone in Austria, the Soviet Government imposed a broad definition of German assets and applied a policy of taking such assets for Soviet use regardless of the impact of that policy on the Austrian economy. Indeed, Soviet exploitation was so onerous as to give rise to the belief that Soviet policy was directed at promoting the economic disintegration of Austria. Within the zones occupied by the Western Powers, however, the definition of German assets has been much more restricted and the policies applicable to the use of these assets have been conditioned by the underlying desire to maintain a strong Austrian economy.

Article 22 does not of itself confer any right to German assets that has not existed since the Potsdam agreement. It does, however serve to transfer to Austria the rights of the Western Powers with respect to these assets.

The United Kingdom, the United States, and France by paragraph 11 transfer to Austria all property, rights, and interests held or claimed by or on behalf of any of them in Austria as former German assets or war booty. This action is taken by the Western Powers as a matter of policy in order to strengthen the Austrian economy and in partial compensation to Austria for her renunciation of claims against Germany (art. 23).

The Soviet Union, however, has agreed to surrender, at a price, its claims to certain German assets in Eastern Austria which it has been using since the war. The first four numbered paragraphs of article 22 set forth the assets which the Soviet Union has claimed in the past. The effect of paragraph 14 of this article and annex II of the treaty is to incorporate by reference that portion of the Austrian-Soviet memorandum of April 15, which provides that the oil enterprises covered by those first 4 paragraphs of article 22 are to be transferred o Austria in exchange for the payment to the Soviet of 1 million tons of oil per year for 10 years.

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[1] Section III of the Protocol of Proceedings of the Berlin Conference; *A Decad*

Shipping Co. in Eastern Austria, which are also transferred to Austria in accordance with the Soviet-Austrian memorandum of April 15, at a cost to Austria of $2 million. All other Soviet property, rights, and interests held or claimed as German assets are to be transferred to Austria by paragraph 6, at a cost of $150 million, to be paid to the Soviet Union over a period of 6 years.

While the provisions of article 22 as they relate to Soviet disposal of German assets show a singular disregard of the interests of Austria they are a great improvement over earlier Soviet demands. Article 35 of the earlier draft treaty, for example, would have entitled the Soviet Union to a substantial portion of Austrian oil properties over a 30-year period and to the assets in perpetuity of the Danube Shipping Co. It should be noted in this connection that article 22 was one of the last articles upon which agreement was reached at Vienna. Until the last moment the Soviet Union was unwilling to accept clauses in article 22, which would incorporate by reference those provisions of the Austrian-Soviet memorandum which had the effect of modifying article 22 in such a way as to avoid the possibility that it might later be used by the Soviet Union as a basis for assertion of a legal right to claim assets which it had agreed to surrender by the bilateral memorandum of April 15.

12. PROVISIONS RELATIVE TO CLAIMS

The unique position of Austria during the war and her enforced relationship with Nazi Germany has given rise to an unusually complex series of claims. Thus, there are Austrians with claims against Germany and Germans with claims against Austria; there are United Nations nationals with claims against Germany relating to property in Austria, and with claims arising out of the treatment in Austria, under Nazi German auspices, of minorities. Moreover, some of the German assets that were taken over by the Soviet Union were in part owned by nationals of the United Nations.

In order that the Senate might have before it an authoritative statement on the matter of private claims, the committee asked the Department of State to supply the committee with a memorandum on this matter. The text of the memorandum follows:

JUNE 15, 1955.

MEMORANDUM

AMERICAN CLAIMS

Article 25 provides for the restoration of American property rights and interests in Austria. The provisions of article 25 also apply to other United Nations which were at war with Germany. The terms of this article are generally similar to the provisions on this subject of the peace treaties with Italy, the Balkan former enemy nations, and Japan, except with regard to compensation. No specific obligations are laid on Austria with regard to compensation for property lost or damaged during the German occupation of Austria, since it was felt that these claims were the responsibility of Germany rather than Austria. However, the article does contain an undertaking on the part of Austria to extend any war-damage compensation granted Austrian nationals to American nationals having property in Austria. The United States Government has also received assurances from the Austrian Government that United States interests in property included in the German asset settlement will be protected and fair compensation granted in cases where property cannot be returned.

Recommendations have recently been made by the executive branch to the Congress, in connection with the proposal for a limited return of German assets in the United States, for legislation to provide compensation for Americans having wartime claims against Germany. These recommendations, which were transmitted in letters from the Secretary of State to the Vice President and the Speaker of the House, dated June 6, 1955,[1] would provide compensation for United States nationals whose property in Austria was lost or damaged during the war for reasons attributable to German action.

CLAIMS AGAINST THE UNITED STATES

Article 24 provides for a general renunciation by Austria of claims against the United States arising out of the war and the occupation. This type of provision is customary in treaties dealing with war problems and comparable provisions have been included in the various peace treaties.

CLAIMS OF PERSECUTEES

After the German occupation of Austria, large numbers of persons who were Austrian nationals or who had taken refuge in Austria were persecuted by the Nazis because of their religion or racial origin. Under article 26, property of which these individuals were deprived will be returned to them if this has not already been done. Where return or restoration is impossible, compensation will e granted on the same basis as is granted Austrian nationals in respect of war damage. Property of organizations and communities of such persons which have eased to exist and of persons who left no heirs will be transferred to agencies to be designated by the four Allied Governments to be used for relief of victims of Nazi persecution.

AUSTRIAN-GERMAN CLAIMS

Under article 27 of the treaty, Austrian property in Germany will be returned to Austria in its existing condition. Austrian claims against Germany arising during the German occupation of Austria are waived by article 27, but Austria will eceive under article 22 German assets in the western zones of Austria and the western sectors of Vienna. These assets will partially compensate Austria for her claims against Germany and will in effect place Austria in the same position as ther countries occupied by Germany whose claims against Germany were dealt with in the Paris Reparations Agreement of 1946 [2] and the London Debt Settlement Agreement [3] previously approved by the Senate.

13. ECONOMIC EFFECTS OF THE TREATY

There is little doubt but that the Austrian State Treaty will have a heavy impact upon the Austrian economy. On the one hand, it imposes burdens on Austria. For some 10 years Austria will be making payments to the Soviet Union which will average over $30 million per year, roughly 5 percent of the current Austrian budget. Moreover, Austria will be required to devote part of its future budgets to building an Austrian army. At the same time, some sources of dollar exchange will be lost to Austria as a consequence of the withdrawal of result of the end of the occupation, and from an improved climate for private investment.

The Department of State has concluded that—

> estimates indicate that the Austrian economy, now operating at about 87 percent of its industrial capacity, should be able to bear the burdens of the treaty without serious disruption to its economy.

Secretary Dulles, in testimony before the committee, stated that—

> assuming that the general world economy continues on approximately the present basis, it is estimated that Austria will, without any abnormal outside assistance, be able to carry on under this treaty . . .

"It is not contemplated," he added, "that there will be any occasion to grant [United States] economic aid to Austria."

(*a*) *Austrian trade*

Article 29 of the treaty deals with post-treaty trade. It provides that pending the conclusion of commercial treaties, during a period of 18 months from the coming into force of the treaty, each of the United Nations shall on the basis of reciprocity receive unconditional most-favored-nation treatment with respect to import, export, and internal taxes. It also provides that Austria is not to make any arbitrary discrimination against goods originating in or destined for any territory of any of the United Nations.

The committee was concerned at the extent to which Austrian trade might be oriented toward the Soviet Union as a consequence of the future drain of goods into the Soviet Union in connection with the provisions of article 22. Not only will there be oil shipments at the rate of 1 million tons annually for 10 years, but there is an important question as to the type of goods to be shipped to make the required payment to Russia of $150 million over a period of 6 years.

At the present time negotiations are underway between Austria and the Soviet Union to determine the nature and quantity of goods that will be involved in these shipments. Since Austria has been prohibited from manufacturing military equipment for the past 10 years, and does not produce strategic goods in significant quantities it does not seem that substantial quantities of strategic shipments to the Soviet Union are likely to occur.

Nevertheless, as Secretary Dulles observed to the committee, the treaty from our point of view "is not perfect in that respect." At the same time it does have the effect of greatly diminishing the degree to which the Austrian economy has been bound to that of the Soviet Union since the war.

> The practical choice that we faced—

said the Secretary of State—

> was whether, for example, to go on with the Russians getting 3 million tons of oil (per year as has been the case since the war) or changing to a situation where they would get only 1 million tons of oil. Obviously the latter was better than the former.

The committee expresses the hope that Austria will continue its participation in organizations moving in the direction of the economic and political integration of Western Europe. The Congress has reiterated its belief many times in the past that a strong, healthy Western European economy depends largely upon the economic and olitical integration of the free nations of Western Europe. The trend in that direction which was given tremendous impetus by the Marshall plan should not be interrupted or interfered with by the conclusion of the Austrian State Treaty.

14. REFUGEES IN AUSTRIA

Members of the Committee on Foreign Relations were much concerned during final negotiations of the treaty that steps be taken to eliminate article 16, which related to refugees and which had appeared in earlier drafts of the treaty. That article, originally designed to deal with the serious problem in Austria of displaced persons and refugees, contained provisions similar to those in other agreements which have been used as a basis for seeking forced repatriation to the Soviet bloc of some refugees and escapees.

The former article 16 has been dropped from the treaty. While as of January 1, 1955, there were an estimated total of more than 200,000 displaced persons, refugees, and aliens in Austria, only some 36,000 are non-German-speaking and only 7,500 of this category are in camps. It is these non-German-speaking people, not easily assimilable in Austria, who constitute the main problem for the future. They are the beneficiaries of Austrian legislation which provides minimum standards of care and protection. It is anticipated that those international agencies which have been assisting in their care in the past will continue to give help to Austria in dealing with this problem.

The committee asked the Secretary of State whether he thought there was any danger that pressure might be used against the Austrian Government by the Soviet Union to force the return of any of these refugees. Mr. Dulles replied:

> I do not think so. Of course, that was the fear which we entertained under the old article 16, and it was because of that fear that the Soviet would use coercive measures which would frighten these people and maybe terrorize them into coming back, that we were able to obtain, after some difficulty, the elimination of that rticle 16. I think it is all right the way it now is, and I think that the sturdy qualities that have been shown by the Austrian Government give adequate assurances that they will not lend themselves to any coercive measures by the Soviet Union which would in fact be a violation of the due sovereignty and independence which the Austrian nation is winning back for itself.

15. EFFECT ON FUTURE UNITED STATES OPERATIONS IN AUSTRIA

Restoration of Austrian independence and the withdrawal of United States occupation troops will basically alter United States relations with Austria. This change will affect certain United States operations

Because of United States occupation responsibilities, the United States Embassy in Vienna has had a staff larger than in other countries of comparable size. The resumption of normal relations with Austria will make possible a sizable reduction of United States civilian personnel in Austria. This reduction, however, will be gradual since for a period not to exceed 18 months, the United States will share the responsibility for executing and interpreting the treaty terms. Moreover, there are many problems arising from the 10-year occupation period which will have to be liquidated. Even after this transition period has ended, the executive branch anticipates the maintenance of a somewhat larger diplomatic establishment than in countries of similar size because Austria will remain a highly important area to the United States. Nevertheless, substantial savings in personnel can be anticipated.

(b) *Information program activities*

The same general factors govern future United States information activities in Austria. Certain activities of the United States Information Agency (USIA) will be suspended as no longer compatible with Austria's new sovereign position—such as the maintenance of the United States radio station and newspaper. Indeed, the Senate Appropriations Committee has already made a reduction of $300,000 in the USIA appropriation request based on suspension of publication of the Wiener Kurier—the American newspaper published in Vienna. However, USIA will continue to maintain a vigorous program in Austria. The Department of State informed the committee as follows:

> For the foreseeable future, however, the State Department regards the continuation of a strong USIA program in Austria to be very important. It is important because of Austria's geographical position adjacent to satellite countries, because of the new phase Austrian-United States relations are entering and because Austria will undoubtedly remain a major target for Soviet propaganda. The State Department is informed that substantial savings in the program will be made, but the exact manner in which the program will be reduced or modified is being studied by USIA.

16. COMMITTEE CONCLUSIONS

The Committee on Foreign Relations was unanimous in recommending to the Senate that it give its advice and consent to the ratification of the Austrian State Treaty. It feels sure that the Senate will give its overwhelming endorsement to the recommendation of the President and the Committee on Foreign Relations, thus making it possible to welcome Austria into full and free membership in the society of nations—a membership which was taken from the Austrian people by the aggression of Hitlerite Germany.

The committee stresses the fact that the treaty before the Senate is not a peace treaty. This Nation was never at war with Austria. The treaty is, rather, the Austrian State Treaty which restores Austria to the status of independence it occupied before the Anschluss.

Austria has been in an anomalous position since the war. The unwillingness of the Soviet Union for 10 years to conclude a treaty which would fulfill the promises of the Moscow Declaration of 1943 that Austria should be reestablished as a "free and independent" nation has imposed heavy burdens on the Austrian people. They have been unwilling to compromise their desire to establish themselves as a free nation. In cooperation with the United Kingdom, France, and the United States, Austria has insisted that the price for the State Treaty should never encompass restrictions on Austrian freedom.

Any treaty embodies accommodation on the part of the parties. That means that freely negotiated treaties seldom, if ever, satisfy fully the desires of all the parties. The Austrian State Treaty is no exception. It does, however, assure Austrian independence and does not contain provisions so onerous as to justify any further delay in bringing it into effect.

The Committee on Foreign Relations desires to express its deep appreciation for the perseverance of the executive branch of this Government under Democratic and Republican administrations in the long and tedious negotiations that have been undertaken in connection with the conclusion of the Austrian Treaty. It desires also to express its appreciation to the Government and the people of Austria for their steadfast devotion to principle during many difficult and trying years. For it is the continuing faith which the Austrian people had in the cause of freedom—more than any other single factor—which made possible the eventual restoration of independence to that country.

The committee urges the Senate to give its approval to the pending treaty.

Part IV

ARMISTICE AGREEMENTS: NEAR EAST, KOREA, INDO-CHINA[1]

Near East

1. EGYPTIAN-ISRAELI GENERAL ARMISTICE AGREEMENT, FEBRUARY 24, 1949[2]

Preamble

The Parties to the present Agreement, responding to the Security Council resolution of 16 November 1948 calling upon them, as a further provisional measure under Article 40 of the Charter of the United Nations and in order to facilitate the transition from the present truce to permanent peace in Palestine, to negotiate an Armistice; having decided to enter into negotiations under United Nations Chairmanship concerning the implementation of the Security Council resolutions of 4 and 16 November 1948;[3] and having appointed representatives empowered to negotiate and conclude an Armistice Agreement;

The undersigned representatives, in the full authority entrusted to them by their respective Governments, have agreed upon the following provisions:

Article I

With a view to promoting the return to permanent peace in Palestine and in recognition of the importance in this regard of mutual assurances concerning the future military operations of the Parties, the following

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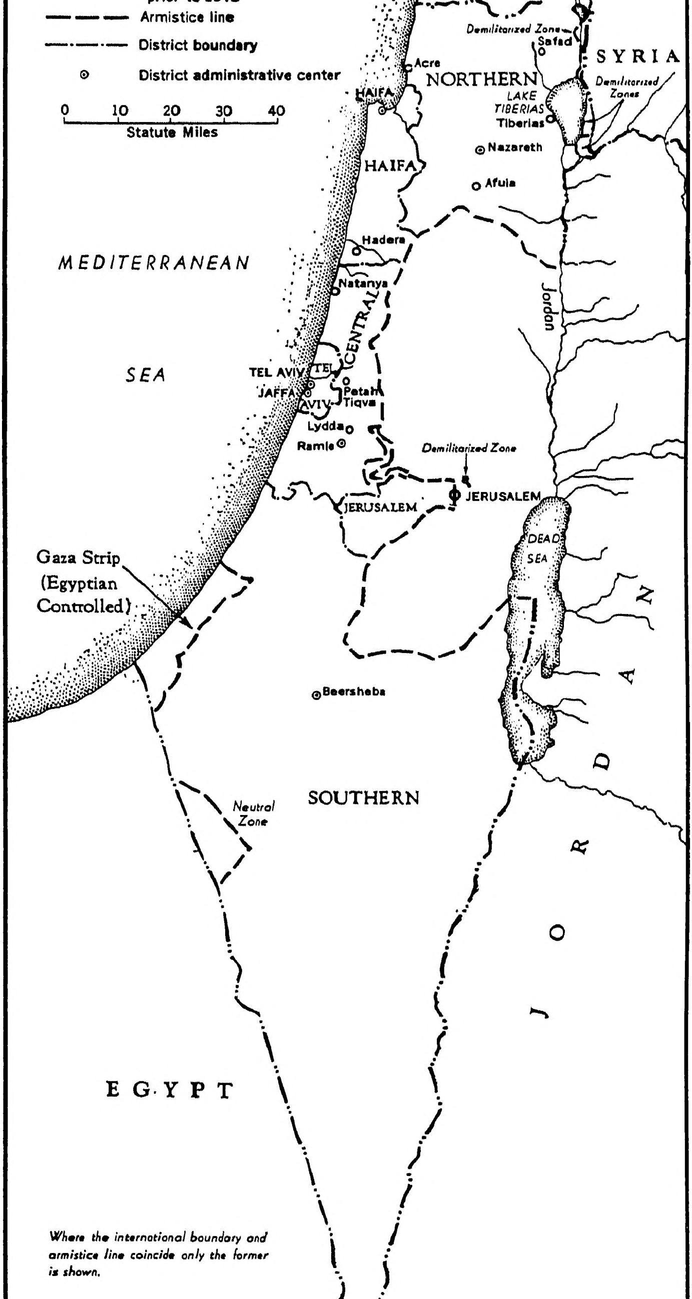
[1] For documents on subsequent developments in these areas, see *infra*, Parts XIII (Near East, South Asia, and Africa), XIV (Far East), and XV (Korea).

[2] U.N. doc. S/1264/Rev. 1, Dec. 13, 1949. For entry into force, see article XII (1).

[3] U.N. docs. S/1070 (Call for withdrawal of forces to positions held on 14


Armistice line
District boundary
District administrative center
0
10
20
30
40
Statute Miles
Demilitarized Zone
Safad
SYRIA
Acre
NORTHERN
Demilitarized Zones
HAIFA
LAKE TIBERIAS
Tiberias
Nazareth
HAIFA
Afula
Hadera
MEDITERRANEAN
Natanya
Jordan
CENTRAL
SEA
TEL AVIV
TEL AVIV
JAFFA
Petah Tiqva
Lydda
Ramle
Demilitarized Zone
JERUSALEM
JERUSALEM
DEAD SEA
Gaza Strip (Egyptian Controlled)
Beersheba
Neutral Zone
SOUTHERN
JORDAN
EGYPT

Where the international boundary and armistice line coincide only the former is shown.

principles, which shall be fully observed by both Parties during the Armistice, are hereby affirmed:

1. The injunction of the Security Council against resort to military force in the settlement of the Palestine question shall henceforth be scrupulously respected by both Parties.

2. No aggressive action by the armed forces—land, sea, or air—of either Party shall be undertaken, planned, or threatened against the people or the armed forces of the other; it being understood that the use of the term "planned" in this context has no bearing on normal staff planning as generally practiced in military organizations.

3. The right of each Party to its security and freedom from fear of attack by the armed forces of the other shall be fully respected.

4. The establishment of an armistice between the armed forces of the two Parties is accepted as an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine.

Article II

1. In pursuance of the foregoing principles and of the resolutions of the Security Council of 4 and 16 November 1948, a general armistice between the armed forces of the two Parties—land, sea and air—is hereby established.

2. No element of the land, sea or air military or para-military forces of either Party, including non-regular forces, shall commit any warlike or hostile act against the military or para-military forces of the other Party, or against civilians in territory under the control of that Party; or shall advance beyond or pass over for any purpose whatsoever the Armistice Demarcation Line set forth in Article VI of this Agreement except as provided in Article III of this Agreement; and elsewhere shall not violate the international frontier; or enter into or pass through the air space of the other Party or through the waters within three miles of the coastline of the other Party.

Article III

1. In pursuance of the Security Council's resolution of 4 November 1948, and with a view to the implementation of the Security Council's resolution of 16 November 1948, the Egyptian Military Forces in the AL FALUJA area shall be withdrawn.

2. This withdrawal shall begin on the day after that which follows the signing of this Agreement, at 0500 hours GMT, and shall be beyond the Egypt-Palestine frontier.

3. The withdrawal shall be under the supervision of the United Nations and in accordance with the Plan of Withdrawal set forth in Annex I[1] to this Agreement.

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[1] Not reprinted here.

Article IV

With specific reference to the implementation of the resolutions of the Security Council of 4 and 16 November 1948, the following principles and purposes are affirmed:

1. The principle that no military or political advantage should be gained under the truce ordered by the Security Council is recognized.
2. It is also recognized that the basic purposes and spirit of the Armistice would not be served by the restoration of previously held military positions, changes from those now held other than as specifically provided for in this Agreement, or by the advance of the military forces of either side beyond positions held at the time this Armistice Agreement is signed.
3. It is further recognized that rights, claims or interests of a non-military character in the area of Palestine covered by this Agreement may be asserted by either Party, and that these, by mutual agreement being excluded from the Armistice negotiations, shall be, at the discretion of the Parties, the subject of later settlement. It is emphasized that it is not the purpose of this Agreement to establish, to recognize, to strengthen, or to weaken or nullify, in any way, any territorial, custodial or other rights, claims or interests which may be asserted by either Party in the area of Palestine or any part or locality thereof covered by this Agreement, whether such asserted rights, claims or interests derive from Security Council resolutions, including the resolution of 4 November 1948 and the Memorandum of 13 November 1948 [1] for its implementation, or from any other source. The provisions of this Agreement are dictated exclusively by military considerations and are valid only for the period of the Armistice.

Article V

1. The line described in Article VI of this Agreement shall be designated as the Armistice Demarcation Line and is delineated in pursuance of the purpose and intent of the resolutions of the Security Council of 4 and 16 November 1948.
2. The Armistice Demarcation Line is not to be construed in any sense as a political or territorial boundary, and is delineated without prejudice to rights, claims and positions of either Party to the Armistice as regards ultimate settlement of the Palestine question.
3. The basic purpose of the Armistice Demarcation Line is to delineate the line beyond which the armed forces of the respective Parties shall not move except as provided in Article III of this Agreement.
4. Rules and regulations of the armed forces of the Parties, which

1. In the Gaza-Rafah area the Armistice Demarcation Line shall be as delineated in paragraph 2.B (i) of the Memorandum of 13 November 1948 on the implementation of the Security Council resolution of 4 November 1948, namely by a line from the coast at the mouth of the Wadi Hasi in an easterly direction through Deir Suneid and across the Gaza-Al Majdal Highway to a point 3 kilometres east of the Highway, then in a southerly direction parallel to the Gaza-Al Madjal [Majdal] Highway, and continuing thus to the Egyptian frontier.

2. Within this line Egyptian forces shall nowhere advance beyond their present positions, and this shall include Beit Hanun and its surrounding area from which Israeli forces shall be withdrawn to north of the Armistice Demarcation Line, and any other positions within the line delineated in paragraph 1 which shall be evacuated by Israeli forces as set forth in paragraph 3.

3. Israeli outposts, each limited to platoon strength, may be maintained in this area at the following points: Deir Suneid, on the north side of the Wadi (MR 10751090); 700 SW of Sa'ad (MR 10500982); Sulphur Quarries (MR 09870924); Tall-Jamma (MR 09720887); and KH AL Ma'in (MR 09320821). The Israeli outpost maintained at the Cemetery (MR 08160723) shall be evacuated on the day after that which follows the signing of this Agreement. The Israeli outpost at Hill 79 (MR 10451017) shall be evacuated not later than four weeks following the day on which this Agreement is signed. Following the evacuation of the above outposts, new Israeli outposts may be established at MR 08360700, and at a point due east of Hill 79 east of the Armistice Demarcation Line.

4. In the Bethlehem-Hebron area, wherever positions are held by Egyptian forces, the provisions of this Agreement shall apply to the forces of both Parties in each such locality, except that the demarcation of the Armistice Line and reciprocal arrangements for withdrawal and reduction of forces shall be undertaken in such manner as may be decided by the Parties, at such time as an Armistice Agreement may be concluded covering military forces in that area other than those of the Parties to this Agreement, or sooner at the will of the Parties.

Article VII

1. It is recognized by the Parties to this Agreement that in certain sectors of the total area involved, the proximity of the forces of a third party not covered by this Agreement makes impractical the full application of all provisions of the Agreement to such sectors. For this reason alone, therefore, and pending the conclusion of an Armistice Agreement in place of the existing truce with that third party, the provisions of this Agreement relating to reciprocal reduction and withdrawal of forces shall apply only to the western front and not to the eastern front.

2. The areas comprising the western and eastern fronts shall be as defined by the United Nations Chief of Staff of the Truce Supervision

Organization, on the basis of the deployment of forces against each other and past military activity or the future possibility thereof in the area. This definition of the western and eastern fronts is set forth in Annex II [1] of this Agreement.

3. In the area of the western front under Egyptian control, Egyptian defensive forces only may be maintained. All other Egyptian forces shall be withdrawn from this area to a point or points no further east than El Arish-Abou Aoueigila.

4. In the area of the western front under Israeli control, Israel defensive forces only, which shall be based on the settlements, may be maintained. All other Israeli forces shall be withdrawn from this area to a point or points north of the line delineated in paragraph 2.A of the Memorandum of 13 November 1948 on the implementation of the resolution of the Security Council of 4 November 1948.

5. The defensive forces referred to in paragraphs 3 and 4 above shall be as defined in Annex III [1] to this Agreement.

Article VIII

1. The area comprising the village of El Auja and vicinity, as defined in paragraph 2 of this Article, shall be demilitarized, and both Egyptian and Israeli armed forces shall be totally excluded therefrom. The Chairman of the Mixed Armistice Commission established in Article X of this Agreement and United Nations Observers attached to the Commission shall be responsible for ensuring the full implementation of this provision.

2. The area thus demilitarized shall be as follows: From a point on the Egypt-Palestine frontier five (5) kilometres north-west of the intersection of the Rafah-El Auja road and the frontier (MR 08750468), south-east to Khashm El Mamdud (MR 09650414) thence south-east to Hill 405 (MR 10780285), thence south-west to a point on the Egypt-Palestine frontier five (5) kilometres south-east of the intersection of the old railway tracks and the frontier (MR 09950145), thence returning north-west along the Egypt-Palestine frontier to the point of origin.

3. On the Egyptian side of the frontier, facing the El Auja area, no Egyptian defensive positions shall be closer to El Auja than El Qouseima and Abou Aoueigila.

4. The road Taba-Qouseima-Auja shall not be employed by any military forces whatsoever for the purpose of entering Palestine.

5. The movement of armed forces of either Party to this Agreement into any part of the area defined in paragraph 2 of this Article, for any purpose, or failure by either Party to respect or fulfil any of the other provisions of this Article, when confirmed by the United Nations representatives, shall constitute a flagrant violation of this Agreement

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[1] Not reprinted here.

All prisoners of war detained by either Party to this Agreement and belonging to the armed forces, regular or irregular, of the other Party shall be exchanged as follows:

1. The exchange of prisoners of war shall be under United Nations supervision and control throughout. The exchange shall begin within ten days after the signing of this Agreement and shall be completed not later than twenty-one days following. Upon the signing of this Agreement, the Chairman of the Mixed Armistice Commission established in Article X of this Agreement, in consultation with the appropriate military authorities of the Parties, shall formulate a plan for the exchange of prisoners of war within the above period, defining the date and places of exchange and all other relevant details.

2. Prisoners of war against whom a penal prosecution may be pending, as well as those sentenced for crime or other offence, shall be included in this exchange of prisoners.

3. All articles of personal use, valuables, letters, documents, identification marks, and other personal effects of whatever nature, belonging to prisoners of war who are being exchanged, shall be returned to them, or, if they have escaped or died, to the Party to whose armed forces they belonged.

4. All matters not specifically regulated in this Agreement shall be decided in accordance with the principles laid down in the International Convention relating to the Treatment of Prisoners of War, signed at Geneva on 27 July 1929.[1]

5. The Mixed Armistice Commission established in Article X of this Agreement shall assume responsibility for locating missing persons, whether military or civilian, within the areas controlled by each Party, to facilitate their expeditious exchange. Each Party undertakes to extend to the Commission full co-operation and assistance in the discharge of this function.

Article X

1. The execution of the provisions of this Agreement shall be supervised by a Mixed Armistice Commission composed of seven members, of whom each Party to this Agreement shall designate three, and whose Chairman shall be the United Nations Chief of Staff of the Truce Supervision Organization or a senior officer from the Observer personnel of that Organization designated by him following consultation with both Parties to this Agreement.

2. The Mixed Armistice Commission shall maintain its headquarters at El Auja, and shall hold its meetings at such places and at such times as it may deem necessary for the effective conduct of its work.

3. The Mixed Armistice Commission shall be convened in its first meeting by the United Nations Chief of Staff of the Truce Supervision Organization not later than one week following the signing of this Agreement.

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[1] Treaty Series 846; 47 Stat. 2021.

ossible, shall be based on the principle of unanimity. In the absence of unanimity, decisions shall be taken by a majority vote of the members of the Commission present and voting. On questions of principle appeal shall lie to [*sic*] a Special Committee, composed of the United Nations Chief of Staff of the Truce Supervision Organization and one member each of the Egyptian and Israeli Delegations to the Armistice Conference at Rhodes or some other senior officer, whose decisions on all such questions shall be final. If no appeal against a decision f the Commission is filed within one week from the date of said decision, that decision shall be taken as final. Appeals to the Special Committee shall be presented to the United Nations Chief of Staff of the Truce Supervision Organization, who shall convene the Committee at the earliest possible date.

5. The Mixed Armistice Commission shall formulate its own rules of procedure. Meetings shall be held only after due notice to the members by the Chairman. The quorum for its meetings shall be a majority of its members.

6. The Commission shall be empowered to employ Observers, who may be from among the military organizations of the Parties or from the military personnel of the United Nations Truce Supervision Organization, or from both, in such numbers as may be considered essential to the performance of its functions. In the event United Nations Observers should be so employed, they shall remain under the command of the United Nations Chief of Staff of the Truce Supervision Organization. Assignments of a general or special nature given to United Nations Observers attached to the Mixed Armistice Commission shall be subject to approval by the United Nations Chief of Staff or his designated representative on the Commission, whichever is serving as Chairman.

7. Claims or complaints presented by either Party relating to the application of this Agreement shall be referred immediately to the Mixed Armistice Commission through its Chairman. The Commission shall take such action on all such claims or complaints by means of its observation and investigation machinery as it may deem appropriate, with a view to equitable and mutually satisfactory settlement.

8. Where interpretation of the meaning of a particular provision of this Agreement is at issue, the Commission's interpretation shall prevail, subject to the right of appeal as provided in paragraph 4 The Commission, in its discretion and as the need arises, may from time to time recommend to the Parties modifications in the provisions of this Agreement.

9. The Mixed Armistice Commission shall submit to both Parties reports on its activities as frequently as it may consider necessary A copy of each such report shall be presented to the Secretary-Genera of the United Nations for transmission to the appropriate organ or agency of the United Nations.

10. Members of the Commission and its Observers shall be accorded such freedom of movement and access in the areas covered by this

majority vote United Nations Observers only shall be employed.

11. The expenses of the Commission, other than those relating to United Nations Observers, shall be apportioned in equal shares between the two Parties to this Agreement.

Article XI

No provision of this Agreement shall in any way prejudice the ights, claims and positions of either Party hereto in the ultimate peaceful settlement of the Palestine question.

Article XII

1. The present Agreement is not subject to ratification and shall come into force immediately upon being signed.

2. This Agreement, having been negotiated and concluded in pursuance of the resolution of the Security Council of 16 November 1948 calling for the establishment of an armistice in order to eliminate the threat to the peace in Palestine and to facilitate the transition from the present truce to permanent peace in Palestine, shall remain in force until a peaceful settlement between the Parties is achieved, except as provided in paragraph 3 of this Article.

3. The Parties to this Agreement may, by mutual consent, revise this Agreement or any of its provisions, or may suspend its application, other than Articles I and II, at any time. In the absence of mutual agreement and after this Agreement has been in effect for one year from the date of its signing, either of the Parties may call upon the Secretary-General of the United Nations to convoke a conference of representatives of the two Parties for the purpose of reviewing, revising or suspending any of the provisions of this Agreement other than Articles I and II. Participation in such conference shall be obligatory upon the Parties.

4. If the conference provided for in paragraph 3 of this Article does not result in an agreed solution of a point in dispute, either Party may bring the matter before the Security Council of the United Nations for the relief sought on the grounds that this Agreement has been concluded in pursuance of Security Council action toward the end of achieving peace in Palestine.

5. This Agreement supersedes the Egyptian-Israeli General Cease-Fire Agreement entered into by the Parties on 24 January 1949.[1]

6. This Agreement is signed in quintuplicate, of which one copy shall be retained by each Party, two copies communicated to the Secretary-General of the United Nations for transmission to the Security Council and to the United Nations Conciliation Commission on Palestine, and one copy to the Acting Mediator on Palestine.

In faith whereof the undersigned representatives of the Contracting Parties have signed hereafter, in the presence of the United Nations the Truce Supervision Organization.

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[1] U.N. doc. S/1225.

Done at Rhodes, Island of Rhodes, Greece, on the twenty-fourth of February nineteen forty-nine.

. . . .

2. LEBANESE-ISRAELI GENERAL ARMISTICE AGREEMENT MARCH 23, 1949 [1]

Preamble

The Parties to the present Agreement,

Responding to the Security Council resolution of 16 November 1948,[2] calling upon them, as a further provisional measure under Article 40 of the Charter of the United Nations and in order to facilitate the transition from the present truce to permanent peace in Palestine, to negotiate an armistice;

Having decided to enter into negotiations under United Nations Chairmanship concerning the implementation of the Security Council resolution of 16 November 1948; and having appointed representatives empowered to negotiate and conclude an Armistice Agreement;

The undersigned representatives, having exchanged their full powers found to be in good and proper form, have agreed upon the following provisions:

Article I

With a view to promoting the return of permanent peace in Palestine and in recognition of the importance in this regard of mutual assurances concerning the future military operations of the Parties, the following principles, which shall be fully observed by both Parties during the armistice, are hereby affirmed:

1. The injunction of the Security Council against resort to military force in the settlement of the Palestine question shall henceforth be scrupulously respected by both Parties.

2. No aggressive action by the armed forces—land, sea, or air—of either Party shall be undertaken, planned, or threatened against the people or the armed forces of the other; it being understood that the use of the term "planned" in this context has no bearing on normal staff planning as generally practised in military organizations.

3. The right of each Party to its security and freedom from fear of attack by the armed forces of the other shall be fully respected.

4. The establishment of an armistice between the armed forces of the two Parties is accepted as an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine.

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[1] U.N. doc. S/1296/Rev. 1, Apr. 8, 1949. For entry into force, see article VIII (1)

[2] U.N. doc. S/1080; U.N. Security Council, *Official Records, Third Year, Supplement for November 1948*, pp. 13–14.

With a specific view to the implementation of the resolution of the Security Council of 16 November 1948, the following principles and purposes are affirmed:

1. The principle that no military or political advantage should be gained under the truce ordered by the Security Council is recognized.

2. It is also recognized that no provision of this Agreement shall in any way prejudice the rights, claims and positions of either Party hereto in the ultimate peaceful settlement of the Palestine question, the provisions of this agreement being dictated exclusively by military considerations.

Article III

1. In pursuance of the foregoing principles and of the resolution of the Security Council of 16 November 1948, a general armistice between the armed forces of the two Parties—land, sea and air—is hereby established.

2. No element of the land, sea or air military or para-military forces of either Party, including non-regular forces, shall commit any warlike or hostile act against the military or para-military forces of the other Party, or against civilians in territory under the control of that Party; or shall advance beyond or pass over for any purpose whatsoever the Armistice Demarcation Line set forth in Article V of this Agreement; or enter into or pass through the air space of the other Party or through the waters within three miles of the coastline of the other Party.

3. No warlike act or act of hostility shall be conducted from territory controlled by one of the Parties to this Agreement against the other Party.

Article IV

1. The line described in Article V of this Agreement shall be designated as the Armistice Demarcation Line and is delineated in pursuance of the purpose and intent of the resolutions of the Security Council of 16 November 1948.

2. The basic purpose of the Armistice Demarcation Line is to delineate the line beyond which the armed forces of the respective Parties shall not move.

3. Rules and regulations of the armed forces of the Parties, which prohibit civilians from crossing the fighting lines or entering the area between the lines, shall remain in effect after the signing of this Agreement with application to the Armistice Demarcation Line defined in Article V.

Article V

1. The Armistice Demarcation Line shall follow the international boundary between the Lebanon and Palestine.

2. In the region of the Armistice Demarcation Line the military

defined in the Annex [1] to this Agreement.

3. Withdrawal of forces to the Armistice Demarcation Line and their reduction to defensive strength in accordance with the preceding paragraph shall be completed within ten days of the signing o this Agreement. In the same way the removal of mines from mine roads and areas evacuated by either Party, and the transmission o plans showing the location of such minefields to the other Party shal be completed within the same period.

Article VI

All prisoners of war detained by either Party to this Agreemen nd belonging to the armed forces, regular or irregular, of the othe Party, shall be exchanged as follows:

1. The exchange of prisoners of war shall be under United Nation supervision and control throughout. The exchange shall take plac t Ras En Naqoura within twenty-four hours of the signing of thi Agreement.

2. Prisoners of war against whom a penal prosecution may be pending, as well as those sentenced for crime or other offence, shall be included in this exchange of prisoners.

3. All articles of personal use, valuables, letters, documents, idenification marks, and other personal effects of whatever nature, belonging to prisoners of war who are being exchanged, shall be returned to them, or, if they have escaped or died, to the Party to whose rmed forces they belonged.

4. All matters not specifically regulated in this Agreement shall b decided in accordance with the principles laid down in the International Convention relating to the Treatment of Prisoners of War signed at Geneva on 27 July 1929.[2]

5. The Mixed Armistice Commission established in Article VII o his Agreement shall assume responsibility for locating missing persons, whether military or civilian, within the areas controlled by each Party, to facilitate their expeditious exchange. Each Party undertakes to extend to the Commission full co-operation and assistance i he discharge of this function.

Article VII

1. The execution of the provisions of this Agreement shall be supervised by a Mixed Armistice Commission composed of five members, f whom each Party to this Agreement shall designate two, and whos Chairman shall be the United Nations Chief of Staff of the Truc Supervision Organization or a senior officer from the Observer personnel of that Organization designated by him following consultatio with both Parties to this Agreement.

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[1] Not reprinted here.

[2] Treaty Series 846; 47 Stat. 2021.

2. The Mixed Armistice Commission shall maintain quarters at the Frontier Post north of Metulla and at the Frontier Post at En Naqoura, and shall hold its meeting places and at such times as it may deem necessary for th conduct of its work.

3. The Mixed Armistice Commission shall be convened meeting by the United Nations Chief of Staff of the Truc sion Organization not later than one week following the this Agreement.

4. Decisions of the Mixed Armistice Commission, to possible, shall be based on the principle of unanimity. sence of unanimity, decisions shall be taken by majority v members of the Commission present and voting.

5. The Mixed Armistice Commission shall formulate its of procedure. Meetings shall be held only after due not members by the Chairman. The quorum for its meetings majority of its members.

6. The Commission shall be empowered to employ Obse may be from among the military organizations of the Parti the military personnel of the United Nations Truce Super ganization, or from both, in such numbers as may be con sential to the performance of its functions. In the eve Nations Observers should be so employed, they shall rem the command of the United Nations Chief of Staff of Supervision Organization. Assignments of a general or spe given to United Nations Observers attached to the Mixed Commission shall be subject to approval by the United Na of Staff or his designated representative on the Commission, is serving as Chairman.

7. Claims or complaints presented by either Party relat application of this Agreement shall be referred immediat Mixed Armistice Commission through its Chairman. The sion shall take such action on all such claims or complaints of its observation and investigation machinery as it appropriate, with a view to equitable and mutually s settlement.

8. Where interpretation of the meaning of a particular p this Agreement, other than the Preamble and Articles I ar issue, the Commission's interpretation shall prevail. mission, in its discretion and as the need arises, may from ti recommend to the Parties modifications in the provisio Agreement.

9. The Mixed Armistice Commission shall submit to bo reports on its activities as frequently as it may consider nec copy of each such report shall be presented to the Secretary- the United Nations for transmission to the appropriate orga of the United Nations.

10. Members of the Commission and its Observers shall be accorded such freedom of movement and access in the areas covered by this Agreement as the Commission may determine to be necessary, provided that when such decisions of the Commission are reached by a majority vote United Nations Observers only shall be employed.

11. The expenses of the Commission, other than those relating to United Nations Observers, shall be apportioned in equal shares between the two Parties to this Agreement.

Article VIII

1. The present Agreement is not subject to ratification and shall come into force immediately upon being signed.

2. This Agreement, having been negotiated and concluded in pursuance of the resolution of the Security Council of 16 November 1948 calling for the establishment of an armistice in order to eliminate the threat to the peace in Palestine and to facilitate the transition from the present truce to permanent peace in Palestine, shall remain in force until a peaceful settlement between the Parties is achieved, except as provided in paragraph 3 of this Article.

3. The Parties to this Agreement may, by mutual consent, revise this Agreement or any of its provisions, or may suspend its application, other than Articles I and III, at any time. In the absence of mutual agreement and after this Agreement has been in effect for one year from the date of its signing, either of the Parties may call upon the Secretary-General of the United Nations to convoke a conference of representatives of the two Parties for the purpose of reviewing, revising, or suspending any of the provisions of this Agreement other than Articles I and III. Participation in such conference shall be obligatory upon the Parties.

4. If the conference provided for in paragraph 3 of this Article does not result in an agreed solution of a point in dispute, either Party may bring the matter before the Security Council of the United Nations for the relief sought on the grounds that this Agreement has been concluded in pursuance of Security Council action toward the end of achieving peace in Palestine.

5. This Agreement is signed in quintuplicate, of which one copy shall be retained by each Party, two copies communicated to the Secretary-General of the United Nations for transmission to the Security Council and to the United Nations Conciliation Commission on Palestine, and one copy to the Acting Mediator on Palestine.

Done at Ras En Naqoura on the twenty-third of March nineteen forty-nine, in the presence of the Personal Deputy of the United Nations Acting Mediator on Palestine and the United Nations Chief of Staff of the Truce Supervision Organization.

. . . .

Preamble

The Parties to the present Agreement,

Responding to the Security Council resolution of 16 November 1948,[2] calling upon them, as a further provisional measure under Article 40 of the Charter of the United Nations and in order to facilitate the transition from the present truce to permanent peace in Palestine, to negotiate an armistice;

Having decided to enter into negotiations under United Nations chairmanship concerning the implementation of the Security Council resolution of 16 November 1948; and having appointed representatives empowered to negotiate and conclude an Armistice Agreement;

The undersigned representatives of their respective Governments, having exchanged their full powers found to be in good and proper form, have agreed upon the following provisions:

Article I

With a view to promoting the return of permanent peace in Palestine and in recognition of the importance in this regard of mutual assurances concerning the future military operations of the Parties, the following principles, which shall be fully observed by both Parties during the armistice, are hereby affirmed:

1. The injunction of the Security Council against resort to military force in the settlement of the Palestine question shall henceforth be scrupulously respected by both Parties;
2. No aggressive action by the armed forces—land, sea, or air—of either Party shall be undertaken, planned, or threatened against the people or the armed forces of the other; it being understood that the use of the term *planned* in this context has no bearing on normal staff planning as generally practised in military organizations;
3. The right of each Party to its security and freedom from fear of attack by the armed forces of the other shall be fully respected;
4. The establishment of an armistice between the armed forces of the two Parties is accepted as an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine.

Article II

With a specific view to the implementation of the resolution of the Security Council of 16 November 1948, the following principles and purposes are affirmed:

1. The principle that no military or political advantage should be gained under the truce ordered by the Security Council is recognized;

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[1] U.N. doc. S/1302/Rev. 1, June 20, 1949. For entry into force, see article XII (1).

[2] U.N. doc. S/1080, U.N. Security Council, *Official Records, Third Year, Supplement for November 1948*, pp. 13–14.

It is also recognized that no provision of this Agreement shall ny way prejudice the rights, claims and positions of either Party to in the ultimate peaceful settlement of the Palestine question, provisions of this Agreement being dictated exclusively by military iderations.

Article III

In pursuance of the foregoing principles and of the resolution of Security Council of 16 November 1948, a general armistice een the armed forces of the two Parties—land, sea and air—is by established.

No element of the land, sea or air military or para-military forces ther Party, including non-regular forces, shall commit any warlike ostile act against the military or para-military forces of the other y, or against civilians in territory under the control of that y; or shall advance beyond or pass over for any purpose whatso- the Armistice Demarcation Lines set forth in articles V and VI is Agreement; or enter into or pass through the air space of the r Party.

No warlike act or act of hostility shall be conducted from territory rolled by one of the Parties to this Agreement against the other y.

Article IV

The lines described in articles V and VI of this Agreement shall esignated as the Armistice Demarcation Lines and are delineated rsuance of the purpose and intent of the resolution of the Security ncil of 16 November 1948.

The basic purpose of the Armistice Demarcation Lines is to eate the lines beyond which the armed forces of the respective ies shall not move.

Rules and regulations of the armed forces of the Parties, which ibit civilians from crossing the fighting lines or entering the area een the lines, shall remain in effect after the signing of this ement with application to the Armistice Demarcation Lines ed in articles V and VI.

Article V

The Armistice Demarcation Lines for all sectors other than the or now held by Iraqi forces shall be as delineated on the maps in x I[1] to this Agreement, and shall be defined as follows:

correspond to the lines defined in the 30 November 1948 Cease-Fire Agreement for the Jerusalem area;

(*c*) In the Hebron-Dead Sea sector, the Armistice Demarcation Line shall be as delineated on map 1 and marked B in annex I to this Agreement;

(*d*) In the sector from a point on the Dead Sea (MR 1925–0958) to the southernmost tip of Palestine, the Armistice Demarcation Line shall be determined by existing military positions as surveyed in March 1949 by United Nations observers, and shall run from north to south as delineated on map 1 in annex I to this Agreement.

Article VI

1. It is agreed that the forces of the Hashemite Jordan Kingdom shall replace the forces of Iraq in the sector now held by the latter forces, the intention of the Government of Iraq in this regard having been communicated to the Acting Mediator in the message of 20 March from the Foreign Minister of Iraq authorizing the delegation of the Hashemite Jordan Kingdom to negotiate for the Iraqi forces and stating that those forces would be withdrawn.

2. The Armistice Demarcation Line for the sector now held by Iraqi forces shall be as delineated on map 1 in annex I to this Agreement and marked A.

3. The Armistice Demarcation Line provided for in paragraph 2 of this article shall be established in stages as follows, pending which the existing military lines may be maintained:

(*a*) In the area west of the road from Baqa to Jaljulia, and thence to the east of Kafr Qasim: within five weeks of the date on which this Armistice Agreement is signed;

(*b*) In the area of Wadi Ara north of the line from Baqa to Zubeiba: within seven weeks of the date on which this Armistice Agreement is signed;

(*c*) In all other areas of the Iraqi sector: within fifteen weeks of the date on which this Armistice Agreement is signed.

4. The Armistice Demarcation Line in the Hebron-Dead Sea sector, referred to in paragraph (*c*) of article V of this Agreement and marked B on map 1 in annex I, which involves substantial deviation from the existing military lines in favour of the forces of the Hashemite Jordan Kingdom, is designated to offset the modifications of the existing military lines in the Iraqi sector set forth in paragraph 3 of this article.

5. In compensation for the road acquired between Tulkarem and Qalqiliya, the Government of Israel agrees to pay to the Government of the Hashemite Jordan Kingdom the cost of constructing twenty

other movable property, and to receive without delay full compensation for the land which they have left. It shall be prohibited for Israeli forces to enter or to be stationed in such villages, in which locally recruited Arab police shall be organized and stationed for internal security purposes.

7. The Hashemite Jordan Kingdom accepts responsibility for al Iraqi forces in Palestine.

8. The provisions of this article shall not be interpreted as prejudicing, in any sense, an ultimate political settlement between the Parties to this Agreement.

9. The Armistice Demarcation Lines defined in articles V and VI of this Agreement are agreed upon by the Parties without prejudice to future territorial settlements or boundary lines or to claims of either Party relating thereto.

10. Except where otherwise provided, the Armistice Demarcation Lines shall be established, including such withdrawal of forces as may be necessary for this purpose, within ten days from the date on which this Agreement is signed.

11. The Armistice Demarcation Lines defined in this article and in article V shall be subject to such rectification as may be agreed upon by the Parties to this Agreement, and all such rectifications shall have the same force and effect as if they had been incorporated in full in this General Armistice Agreement.

Article VII

1. The military forces of the Parties to this Agreement shall be limited to defensive forces only in the areas extending ten kilometres from each side of the Armistice Demarcation Lines, except where geographical considerations make this impractical, as at the southernmost tip of Palestine and the coastal strip. Defensive forces permissible in each sector shall be as defined in annex II[1] to this Agreement. In the sector now held by Iraqi forces, calculations on the reduction of forces shall include the number of Iraqi forces in this sector.

2. Reduction of forces to defensive strength in accordance with the preceding paragraph shall be completed within ten days of the establishment of the Armistice Demarcation Lines defined in this Agreement. In the same way the removal of mines from mined roads and areas evacuated by either Party, and the transmission of plans showing the location of such minefields to the other Party, shall be completed within the same period.

3. The strength of the forces which may be maintained by the Parties on each side of the Armistice Demarcation Lines shall be subject to periodical review with a view toward further reduction of

o enlarge the scope of this Agreement and to effect improvements in
ts application.

2. The Special Committee shall be organized immediately following
he coming into effect of this Agreement and shall direct its attention
o the formulation of agreed plans and arrangements for such matters
is either Party may submit to it, which, in any case, shall include the
following, on which agreement in principle already exists: free movement of traffic on vital roads, including the Bethlehem and Latrun-Jerusalem roads; resumption of the normal functioning of the cultural
and humanitarian institutions on Mount Scopus and free access
thereto; free access to the Holy Places and cultural institutions and
use of the cemetery on the Mount of Olives; resumption of operation
of the Latrun pumping station; provision of electricity for the Old
City; and resumption of operation of the railroad to Jerusalem.

3. The Special Committee shall have exclusive competence over
such matters as may be referred to it. Agreed plans and arrangements
formulated by it may provide for the exercise of supervisory functions
by the Mixed Armistice Commission established in article XI.

Article IX

Agreements reached between the Parties subsequent to the signing
of this Armistice Agreement relating to such matters as further
reduction of forces as contemplated in paragraph 3 of article VII
future adjustments of the Armistice Demarcation Lines, and plans
and arrangements formulated by the Special Committee established
in article VIII, shall have the same force and effect as the provisions
of this Agreement and shall be equally binding upon the Parties.

Article X

An exchange of prisoners of war having been effected by specia
arrangement between the Parties prior to the signing of this Agreement, no further arrangements on this matter are required excep
that the Mixed Armistice Commission shall undertake to re-examine
whether there may be any prisoners of war belonging to either Party
which were not included in the previous exchange. In the event tha
prisoners of war shall be found to exist, the Mixed Armistice Commission shall arrange for an early exchange of such prisoners. Th
Parties to this Agreement undertake to afford full co-operation to th
Mixed Armistice Commission in its discharge of this responsibility.

Article XI

1. The execution of the provisions of this Agreement, with th
exception of such matters as fall within the exclusive competence o
the Special Committee established in article VIII, shall be supervise
by a Mixed Armistice Commission composed of five members, o
whom each Party to this Agreement shall designate two, and whos
Chairman shall be the United Nations Chief of Staff of the Truc
Supervision Organization or a senior officer from the observer person

nel of that organization designated by him following consultation with both Parties to this Agreement.

2. The Mixed Armistice Commission shall maintain its headquarters at Jerusalem and shall hold its meetings at such places and at such times as it may deem necessary for the effective conduct of its work.

3. The Mixed Armistice Commission shall be convened in its first meeting by the United Nations Chief of Staff of the Truce Supervision Organization not later than one week following the signing of this Agreement.

4. Decisions of the Mixed Armistice Commission, to the extent possible, shall be based on the principle of unanimity. In the absence of unanimity, decisions shall be taken by a majority vote of the members of the Commission present and voting.

5. The Mixed Armistice Commission shall formulate its own rules of procedure. Meetings shall be held only after due notice to the members by the Chairman. The quorum for its meetings shall be a majority of its members.

6. The Commission shall be empowered to employ observers, who may be from among the military organizations of the Parties or from the military personnel of the United Nations Truce Supervision Organization, or from both, in such numbers as may be considered essential to the performance of its functions. In the event United Nations observers should be so employed, they shall remain under the command of the United Nations Chief of Staff of the Truce Supervision Organization. Assignments of a general or special nature given to United Nations observers attached to the Mixed Armistice Commission shall be subject to approval by the United Nations Chief of Staff or his designated representative on the Commission, whichever is serving as Chairman.

7. Claims or complaints presented by either Party relating to the application of this Agreement shall be referred immediately to the Mixed Armistice Commission through its Chairman. The Commission shall take such action on all such claims or complaints by means of its observation and investigation machinery as it may deem appropriate, with a view to equitable and mutually satisfactory settlement.

8. Where interpretation of the meaning of a particular provision of this Agreement, other than the preamble and articles I and II, is at issue, the Commission's interpretation shall prevail. The Commission, in its discretion and as the need arises, may from time to time recommend to the Parties modifications in the provisions of this Agreement.

9. The Mixed Armistice Commission shall submit to both Parties

vided that when such decisions of the Commission are rea majority vote United Nations observers only shall be empl

11. The expenses of the Commission, other than those United Nations observers, shall be apportioned in equal tween the two Parties to this Agreement.

Article XII

1. The present Agreement is not subject to ratification come into force immediately upon being signed.

2. This Agreement, having been negotiated and con pursuance of the resolution of the Security Council of 16 1948 calling for the establishment of an armistice in order to the threat to the peace in Palestine and to facilitate the from the present truce to permanent peace in Palestine, sh in force until a peaceful settlement between the Parties is except as provided in paragraph 3 of this article.

3. The Parties to this Agreement may, by mutual cons this Agreement or any of its provisions, or may suspend its a other than articles I and III, at any time. In the absence agreement and after this Agreement has been in effect fo from the date of its signing, either of the Parties may cal Secretary-General of the United Nations to convoke a co representatives of the two Parties for the purpose of revi vising, or suspending any of the provisions of this Agreem than articles I and III. Participation in such conferenc obligatory upon the Parties.

4. If the conference provided for in paragraph 3 of this a not result in an agreed solution of a point in dispute, ei may bring the matter before the Security Council of t Nations for the relief sought on the grounds that this Agre been concluded in pursuance of Security Council action t end of achieving peace in Palestine.

5. This Agreement is signed in quintuplicate, of which shall be retained by each Party, two copies communica Secretary-General of the United Nations for transmissi Security Council and to the United Nations Conciliation C on Palestine, and one copy to the United Nations Acting on Palestine.

DONE at Rhodes, Island of Rhodes, Greece, on the thi one thousand nine hundred and forty-nine in the prese United Nations Acting Mediator on Palestine and the Unit Chief of Staff of the Truce Supervision Organization.

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Preamble

The Parties to the present Agreement,

Responding to the Security Council resolution of 16 Novembe 1948,[2] calling upon them, as a further provisional measure unde Article 40 of the Charter of the United Nations and in order to facilitate the transition from the present truce to permanent peace in Palestine, to negotiate an armistice;

Having decided to enter into negotiations under United Nations Chairmanship concerning the implementation of the Security Council resolution of 16 November 1948; and having appointed representatives empowered to negotiate and conclude an Armistice Agreement;

The undersigned representatives, having exchanged their full powers found to be in good and proper form, have agreed upon the following provisions:

Article I

With a view to promoting the return of permanent peace in Palestine and in recognition of the importance in this regard of mutual assurances concerning the future military operations of the Parties, the following principles, which shall be fully observed by both Parties during the armistice, are hereby affirmed:

1. The injunction of the Security Council against resort to military force in the settlement of the Palestine question shall henceforth be scrupulously respected by both Parties. The establishment of an armistice between their armed forces is accepted as an indispensable step toward the liquidation of armed conflict and the restoration o peace in Palestine.

2. No aggressive action by the armed forces—land, sea or air—o either Party shall be undertaken, planned, or threatened against the people or the armed forces of the other; it being understood that the use of the term *planned* in this context has no bearing on normal staff planning as generally practised in military organizations.

3. The right of each Party to its security and freedom from fea of attack by the armed forces of the other shall be fully respected.

Article II

With a specific view to the implementation of the resolution of the Security Council of 16 November 1948, the following principles and purposes are affirmed:

1. The principle that no military or political advantage should be gained under the truce ordered by the Security Council is recognized

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[1] U.N. doc. S/1353/Rev. 1. For entry into force, see article VIII (1).

[2] U.N. doc. S/1080; U.N. Security Council, *Official Records, Third Year, Supple ment for November 1948*, pp. 13–14.

ereto in the ultimate peaceful settlement of the Palestine question, the provisions of this Agreement being dictated exclusively by military, and not by political, considerations.

Article III

1. In pursuance of the foregoing principles and of the resolution of the Security Council of 16 November 1948, a general armistice between the armed forces of the two Parties—land, sea and air—is hereby established.

2. No element of the land, sea or air, military or para-military, forces of either Party, including non-regular forces, shall commit any warlike or hostile act against the military or para-military forces of the other Party, or against civilians in territory under the control of that Party; or shall advance beyond or pass over for any purpose whatsoever the Armistice Demarcation Line set forth in article V of this Agreement; or enter into or pass through the air space of the other Party or through the waters within three miles of the coastline of the other Party.

3. No warlike act or act of hostility shall be conducted from territory controlled by one of the Parties to this Agreement against the other Party or against civilians in territory under control of that Party.

Article IV

1. The line described in article V of this Agreement shall be designated as the Armistice Demarcation Line and is delineated in pursuance of the purpose and intent of the resolution of the Security Council of 16 November 1948.

2. The basic purpose of the Armistice Demarcation Line is to delineate the line beyond which the armed forces of the respective Parties shall not move.

3. Rules and regulations of the armed forces of the Parties, which prohibit civilians from crossing the fighting lines or entering the area between the lines, shall remain in effect after the signing of this Agreement, with application to the Armistice Demarcation Line defined in Article V, subject to the provisions of paragraph 5 of that article.

Article V

1. It is emphasized that the following arrangements for the Armistice Demarcation Line between the Israeli and Syrian armed forces and for the Demilitarized Zone are not to be interpreted as having any relation whatsoever to ultimate territorial arrangements affecting the two Parties to this Agreement.

2. In pursuance of the spirit of the Security Council resolution of 16 November 1948, the Armistice Demarcation Line and the Demilitarized Zone have been defined with a view toward separating the armed forces of the two Parties in such manner as to minimize the

possibility of friction and incident, while providing for the gradual restoraton [restoration] of normal civilian life in the area of the Demilitarized Zone, without prejudice to the ultimate settlement.

3. The Armistice Demarcation Line shall be as delineated on the map attached to this Agreement as annex I.[1] The Armistice Demarcation Line shall follow a line midway between the existing truce lines, as certified by the United Nations Truce Supervision Organization for the Israeli and Syrian forces. Where the existing truce lines run along the international boundary between Syria and Palestine, the Armistice Demarcation Line shall follow the boundary line.

4. The armed forces of the two Parties shall nowhere advance beyond the Armistice Demarcation Line.

5. (*a*) Where the Armistice Demarcation Line does not correspond to the international boundary between Syria and Palestine, the area between the Armistice Demarcation Line and the boundary, pending final territorial settlement between the Parties, shall be established as a Demilitarized Zone from which the armed forces of both Parties shall be totally excluded, and in which no activities by military or para-military forces shall be permitted. This provision applies to the Ein Gev and Dardara sectors which shall form part of the Demilitarized Zone.

(*b*) Any advance by the armed forces, military or para-military, of either Party into any part of the Demilitarized Zone, when confirmed by the United Nations representatives referred to in the following sub-paragraph, shall constitute a flagrant violation of this Agreement.

(*c*) The Chairman of the Mixed Armistice Commission established in article VII of this Agreement and United Nations observers attached to the Commission shall be responsible for ensuring the full implementation of this article.

(*d*) The withdrawal of such armed forces as are now found in the Demilitarized Zone shall be in accordance with the schedule of withdrawal annexed to this Agreement (annex II).[1]

(*e*) The Chairman of the Mixed Armistice Commission shall be empowered to authorize the return of civilians to villages and settlements in the Demilitarized Zone and the employment of limited numbers of locally recruited civilian police in the zone for internal security purposes, and shall be guided in this regard by the schedule of withdrawal referred to in sub-paragraph (*d*) of this article.

6. On each side of the Demilitarized Zone there shall be areas, as defined in annex III[1] to this Agreement, in which defensive forces only shall be maintained, in accordance with the definition of defensive forces set forth in annex IV[1] to this Agreement.

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[1] Not reprinted here.

Article VI

All prisoners of war detained by either Party to this Agreement and belonging to the armed forces, regular or irregular, of the other Party, shall be exchanged as follows:

1. The exchange of prisoners of war shall be under United Nations supervision and control throughout. The exchange shall take place at the site of the Armistice Conference within twenty-four hours of the signing of this Agreement.
2. Prisoners of war against whom a penal prosecution may be pending, as well as those sentenced for crime or other offence, shall be included in this exchange of prisoners.
3. All articles of personal use, valuables, letters, documents, identification marks, and other personal effects of whatever nature, belonging to prisoners of war who are being exchanged, shall be returned to them, or, if they have escaped or died, to the Party to whose armed forces they belonged.
4. All matters not specifically regulated in this Agreement shall be decided in accordance with the principles laid down in the International Convention relating to the Treatment of Prisoners of War, signed at Geneva on 27 July 1929.[1]
5. The Mixed Armistice Commission established in article VII of this Agreement shall assume responsibility for locating missing persons, whether military or civilian, within the areas controlled by each Party, to facilitate their expeditious exchange. Each Party undertakes to extend to the Commission full co-operation and assistance in the discharge of this function.

Article VII

1. The execution of the provisions of this Agreement shall be supervised by a Mixed Armistice Commission composed of five members, of whom each Party to this Agreement shall designate two, and whose Chairman shall be the United Nations Chief of Staff of the Truce Supervision Organization or a senior officer from the observer personnel of that organization designated by him following consultation with both Parties to this Agreement.
2. The Mixed Armistice Commission, shall maintain its headquarters at the Customs House near Jisr Banat Ya'qub and at Mahanayim, and shall hold its meetings at such places and at such times as it may deem necessary for the effective conduct of its work.
3. The Mixed Armistice Commission shall be convened in its first meeting by the United Nations Chief of Staff of the Truce Supervision

members by the Chairman. The quorum for its meetings shall be a majority of its members.

6. The Commission shall be empowered to employ observers, who may be from among the military organizations of the Parties or from the military personnel of the United Nations Truce Supervision Organization, or from both, in such numbers as may be considered essential to the performance of its functions. In the event United Nations observers should be so employed, they shall remain under the command of the United Nations Chief of Staff of the Truce Supervision Organization. Assignments of a general or special nature given to United Nations observers attached to the Mixed Armistice Commission shall be subject to approval by the United Nations Chief of Staff r his designated representative on the Commission, whichever is serving as Chairman.

7. Claims or complaints presented by either Party relating to the application of this Agreement shall be referred immediately to the Mixed Armistice Commission through its Chairman. The Commission shall take such action on all such claims or complaints by means of its observation and investigation machinery as it may deem appropriate, with a view to equitable and mutually satisfactory settlement.

8. Where interpretation of the meaning of a particular provision of this Agreement, other than the preamble and articles I and II, is at issue, the Commission's interpretation shall prevail. The Commission, in its discretion and as the need arises, may from time to time recommend to the Parties modifications in the provisions of this Agreement.

9. The Mixed Armistice Commission shall submit to both Parties reports on its activities as frequently as it may consider necessary. A copy of each such report shall be presented to the Secretary-General of the United Nations for transmission to the appropriate organ or agency of the United Nations.

10. Members of the Commission and its observers shall be accorded such freedom of movement and access in the area covered by this Agreement as the Commission may determine to be necessary, provided that when such decisions of the Commission are reached by a majority vote United Nations observers only shall be employed.

11. The expenses of the Commission, other than those relating to United Nations observers, shall be apportioned in equal shares between the two Parties to this Agreement.

Article VIII

1. The present Agreement is not subject to ratification and shall come into force immediately upon being signed.

2. This Agreement, having been negotiated and concluded in pursuance of the resolution of the Security Council of 16 November 1948 calling for the establishment of an armistice in order to eliminate the threat to the peace in Palestine and to facilitate the transition from the present truce to permanent peace in Palestine, shall remain in force until a peaceful settlement between the Parties is achieved, except as provided in paragraph 3 of this article.

this Agreement or any of its provisions, or may suspend its application other than articles I and III, at any time. In the absence of mutual agreement and after this Agreement has been in effect for one yea from the date of its signing, either of the Parties may call upon the Secretary-General of the United Nations to convoke a conference o representatives of the two Parties for the purpose of reviewing, revising, or suspending any of the provisions of this Agreement othe than articles I and III. Participation in such conferences shall be obligatory upon the Parties.

4. If the conference provided for in paragraph 3 of this article doe not result in an agreed solution of a point in dispute, either Party may bring the matter before the Security Council of the United Nations fo the relief sought, on the grounds that this Agreement has been concluded in pursuance of Security Council action toward the end o achieving peace in Palestine.

5. This Agreement, of which the English and French texts ar equally authentic, is signed in quintuplicate. One copy shall b retained by each Party, two copies communicated to the Secretary-General of the United Nations for transmission to the Securit Council and the United Nations Conciliation Commission on Palestine and one copy to the Acting Mediator on Palestine.

DONE at Hill 232 near Mahanayim on the twentieth of July ninetee forty-nine, in the presence of the personal deputy of the Unite Nations Acting Mediator on Palestine and the United Nations Chie of Staff of the Truce Supervision Organization.

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Korea

5. ARMISTICE AGREEMENT BETWEEN THE UNITED NATIONS COMMANDER IN KOREA AND THE COMMANDER OF COMMUNIST FORCES IN KOREA, JULY 27, 1953, TOGETHER WITH ANNEX AND SUPPLEMENTARY TEMPORARY AGREEMENT [1]

PREAMBLE

The undersigned, the Commander-in-Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korea People's Army and the Commander of the Chinese People's Volunteers, on the other hand, in the interest of stopping the Korean conflict, with its great toll of suffering and bloodshed on both sides, an

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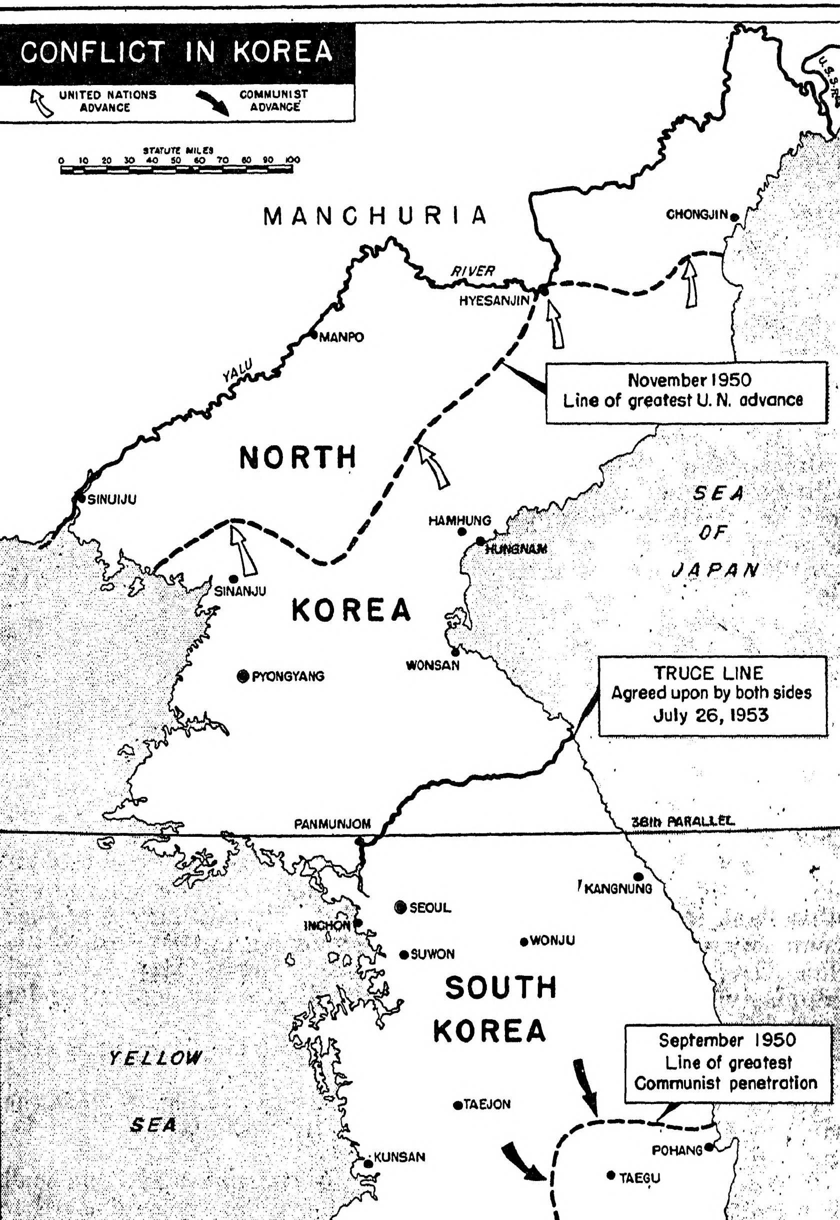
[1] Treaties and Other International Acts Series (TIAS) 2782; 4 UST 234–35 For entry into force, see articles II (12) and V (63).



CONFLICT IN KOREA

November 1950
Line of greatest U. N. advance

TRUCE LINE
Agreed upon by both sides
July 26, 1953

September 1950
Line of greatest
Communist penetration

UNITED NATIONS ADVANCE
COMMUNIST ADVANCE
STATUTE MILES
0 10 20 30 40 50 60 70 80 90 100
MANCHURIA
U.S.S.R.
CHONGJIN
RIVER
HYESANJIN
MANPO
YALU
NORTH
KOREA
SINUIJU
HAMHUNG
HUNGNAM
SEA OF JAPAN
SINANJU
WONSAN
PYONGYANG
PANMUNJOM
38th PARALLEL
KANGNUNG
SEOUL
INCHON
SUWON
WONJU
SOUTH
KOREA
YELLOW SEA
TAEJON
KUNSAN
POHANG
TAEGU

complete cessation of hostilities and of all acts of armed force in Korea until a final peaceful settlement is achieved, do individually, collectively, and mutually agree to accept and to be bound and governed by the conditions and terms of armistice set forth in the following Articles and Paragraphs, which said conditions and terms are intended to be purely military in character and to pertain solely to the belligerents in Korea.

ARTICLE I

MILITARY DEMARCATION LINE AND DEMILITARIZED ZONE

1. A Military Demarcation Line shall be fixed and both sides shall withdraw two (2) kilometers from this line so as to establish a Demilitarized Zone between the opposing forces. A Demilitarized Zone shall be established as a buffer zone to prevent the occurrence of incidents which might lead to a resumption of hostilities.

2. The Military Demarcation Line is located as indicated on the attached map (Map 1).[1]

3. The Demilitarized Zone is defined by a northern and a southern boundary as indicated on the attached map (Map 1).

4. The Military Demarcation Line shall be plainly marked as directed by the Military Armistice Commission hereinafter established. The Commanders of the opposing sides shall have suitable markers erected along the boundary between the Demilitarized Zone and their respective areas. The Military Armistice Commission shall supervise the erection of all markers placed along the Military Demarcation Line and along the boundaries of the Demilitarized Zone.

5. The waters of the Han River Estuary shall be open to civil shipping of both sides wherever one bank is controlled by one side and the other bank is controlled by the other side. The Military Armistice Commission shall prescribe rules for the shipping in that part of the Han River Estuary indicated on the attached map (Map 2). Civil shipping of each side shall have unrestricted access to the land under the military control of that side.

6. Neither side shall execute any hostile act within, from, or against the Demilitarized Zone.

7. No person, military or civilian, shall be permitted to cross the Military Demarcation Line unless specifically authorized to do so by the Military Armistice Commission.

8. No person, military or civilian, in the Demilitarized Zone shall be permitted to enter the territory under the military control of either side unless specifically authorized to do so by the Commander into whose territory entry is sought.

9. No person, military or civilian, shall be permitted to enter the Demilitarized Zone except persons concerned with the conduct of

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[1] The originals of the maps, large-scale in size, are deposited with the signed original agreement in the archives of the Department of State where they are available for reference.

civil administration and relief and persons specifically authorized to enter by the Military Armistice Commission.

10. Civil administration and relief in that part of the Demilitarized Zone which is south of the Military Demarcation Line shall be the responsibility of the Commander-in-Chief, United Nations Command and civil administration and relief in that part of the Demilitarized Zone which is north of the Military Demarcation Line shall be the joint responsibility of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. The number of persons, military or civilian, from each side who are permitted to enter the Demilitarized Zone for the conduct of civi administration and relief shall be as determined by the respective Commanders, but in no case shall the total number authorized by either side exceed one thousand (1,000) persons at any one time. The number of civil police and the arms to be carried by them shall be as prescribed by the Military Armistice Commission. Other personnel shall not carry arms unless specifically authorized to do so by the Military Armistice Commission.

11. Nothing contained in this Article shall be construed to prevent the complete freedom of movement to, from, and within the Demilitarized Zone by the Military Armistice Commission, its assistants, its Joint Observer Teams with their assistants, the Neutral Nations Supervisory Commission hereinafter established, its assistants, its Neutral Nations Inspection Teams with their assistants, and of any other persons, materials, and equipment specifically authorized to enter the Demilitarized Zone by the Military Armistice Commission. Convenience of movement shall be permitted through the territory under the military control of either side over any route necessary to move between points within the Demilitarized Zone where such points are not connected by roads lying completely within the Demilitarized Zone.

ARTICLE II

CONCRETE ARRANGEMENTS FOR CEASE-FIRE AND ARMISTICE

A. General

12. The Commanders of the opposing sides shall order and enforce a complete cessation of all hostilities in Korea by all armed forces under their control, including all units and personnel of the ground, naval, and air forces, effective twelve (12) hours after this Armistice Agreement is signed. (See Paragraph 63 hereof for effective date

and equipment from the Demilitarized Zone except as otherwise provided herein. All demolitions, minefields, wire entanglements, and other hazards to the safe movement of personnel of the Military Armistice Commission or its Joint Observer Teams, known to exist within the Demilitarized Zone after the withdrawal of military forces therefrom, together with lanes known to be free of all such hazards, shall be reported to the Military Armistice Commission by the Commander of the side whose forces emplaced such hazards. Subsequently, additional safe lanes shall be cleared; and eventually, within forty-five (45) days after the termination of the seventy-two (72) hour period, all such hazards shall be removed from the Demilitarized Zone as directed by and under the supervision of the Military Armistice Commission. At the termination of the seventy-two (72) hour period, except for unarmed troops authorized a forty-five (45) day period to complete salvage operations under Military Armistice Commission supervision, such units of a police nature as may be specifically requested by the Military Armistice Commission and agreed to by the Commanders of the opposing sides, and personnel authorized under Paragraphs 10 and 11 hereof, no personnel of either side shall be permitted to enter the Demilitarized Zone.

b. Within ten (10) days after this Armistice Agreement becomes effective, withdraw all of their military forces, supplies, and equipment from the rear and the coastal islands and waters of Korea of the other side. If such military forces are not withdrawn within the stated time limit, and there is no mutually agreed and valid reason for the delay, the other side shall have the right to take any action which it deems necessary for the maintenance of security and order. The term "coastal islands", as used above, refers to those islands which, though occupied by one side at the time when this Armistice Agreement becomes effective, were controlled by the other side on 24 June 1950, provided, however, that all the islands lying to the north and west of the provincial boundary line between HWANGHAE-DO and KYONGGI-DO shall be under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, except the island groups of PAENGYONG-DO (37°58′N, 124°40′E), TAECHONG-DO (37°50′N, 124°42′E), SOCHONG-DO (37°46′N, 124°46′E), YONPYONG-DO (37°38′N, 125°40′E), and U-DO (37°36′N, 125°58′E), which shall remain under the military control of the Commander-in-Chief, United Nations Command. All the islands on the west coast of Korea lying south of the above-mentioned boundary line shall remain under the military control of the Commander-in-Chief, United Nations Command. (See Map 3.)[1]

43 hereof. Rotation shall be conducted on a man-for-man basis provided, however, that no more than thirty-five thousand (35,000) persons in the military service shall be admitted into Korea by either side in any calendar month under the rotation policy. No military personnel of either side shall be introduced into Korea if the introduction of such personnel will cause the aggregate of the military personnel of that side admitted into Korea since the effective date of this Armistice Agreement to exceed the cumulative total of the military personnel of that side who have departed from Korea since that date Reports concerning arrivals in and departures from Korea of military personnel shall be made daily to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include places of arrival and departure and the number of persons arriving at or departing from each such place. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the rotation of units and personnel authorized above, at the ports of entry enumerated in Paragraph 43 hereof.

d. Cease the introduction into Korea of reinforcing combat aircraft, armored vehicles, weapons, and ammunition; provided, however, that combat aircraft, armored vehicles, weapons, and ammunition which are destroyed, damaged, worn out, or used up during the period of the armistice may be replaced on the basis of piece-for-piece of the same effectiveness and the same type. Such combat aircraft, armored vehicles, weapons, and ammunition shall be introduced into Korea only through the ports of entry enumerated in Paragraph 43 hereof. In order to justify the requirement for combat aircraft, armored vehicles, weapons, and ammunition to be introduced into Korea for replacement purposes, reports concerning every incoming shipment of these items shall be made to the Military Armistice Commission and the Neutral Nations Supervisory Commission; such reports shall include statements regarding the disposition of the items being replaced. Items to be replaced which are removed from Korea shall be removed only through the ports of entry enumerated in Paragraph 43 hereof. The Neutral Nations Supervisory Commission, through its Neutral Nations Inspection Teams, shall conduct supervision and inspection of the replacement of combat aircraft, armored vehicles, weapons, and ammunition authorized above, at the ports of entry enumerated in Paragraph 43 hereof.

e. Insure that personnel of their respective commands who violate any of the provisions of this Armistice Agreement are adequately punished.

f. In those cases where places of burial are a matter of record and graves are actually found to exist, permit graves registration personnel of the other side to enter, within a definite time limit after this Armistice Agreement becomes effective, the territory of Korea under their military control, for the purpose of proceeding to such graves to recover and evacuate the bodies of the deceased military specific procedures and the time limit for the performance of the above task shall be determined by the Military Armistice Commission. The Commanders of the opposing sides shall furnish to the other side all available information pertaining to the places of burial of the deceased military personnel of the other side.

g. Afford full protection and all possible assistance and cooperation to the Military Armistice Commission, its Joint Observer Teams, the Neutral Nations Supervisory Commission, and its Neutral Nations Inspection Teams, in the carrying out of their functions and responsibilities hereinafter assigned; and accord to the Neutral Nations Supervisory Commission, and to its Neutral Nations Inspection Teams, full convenience of movement between the headquarters of the Neutral Nations Supervisory Commission and the ports of entry enumerated in Paragraph 43 hereof over main lines of communication agreed upon by both sides (See Map 4), and between the headquarters of the Neutral Nations Supervisory Commission and the places where violations of this Armistice Agreement have been reported to have occurred. In order to prevent unnecessary delays, the use of alternate routes and means of transportation will be permitted whenever the main lines of communication are closed or impassable.

h. Provide such logistic support, including communications and transportation facilities, as may be required by the Military Armistice Commission and the Neutral Nations Supervisory Commission and their Teams.

i. Each construct, operate, and maintain a suitable airfield in their respective parts of the Demilitarized Zone in the vicinity of the headquarters of the Military Armistice Commission, for such uses as the Commission may determine.

j. Insure that all members and other personnel of the Neutral Nations Supervisory Commission and of the Neutral Nations Repatriation Commission hereinafter established shall enjoy the freedom and facilities necessary for the proper exercise of their functions, including privileges, treatment, and immunities equivalent to those ordinarily enjoyed by accredited diplomatic personnel under international usage.

14. This Armistice Agreement shall apply to all opposing ground forces under the military control of either side, which ground forces shall respect the Demilitarized Zone and the area of Korea under the military control of the opposing side.

15. This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.

16. This Armistice Agreement shall apply to all opposing air forces, which air forces shall respect the air space over the Demilitarized Zone and over the area of Korea under the military control of the opposing side, and over the waters contiguous to both.

and provisions of this Armistice Agreement is that of the signatories hereto and their successors in command. The Commanders of the opposing sides shall establish within their respective commands all measures and procedures necessary to insure complete compliance with all of the provisions hereof by all elements of their commands. They shall actively cooperate with one another and with the Military Armistice Commission and the Neutral Nations Supervisory Commission in requiring observance of both the letter and the spirit of all of the provisions of this Armistice Agreement.

18. The costs of the operations of the Military Armistice Commission and of the Neutral Nations Supervisory Commission and of their Teams shall be shared equally by the two opposing sides.

B. Military Armistice Commission

1. COMPOSITION

19. A Military Armistice Commission is hereby established.

20. The Military Armistice Commission shall be composed of ten (10) senior officers, five (5) of whom shall be appointed by the Commander-in-Chief, United Nations Command, and five (5) of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Of the ten members, three (3) from each side shall be of general or flag rank. The two (2) remaining members on each side may be major generals, brigadier generals, colonels, or their equivalents.

21. Members of the Military Armistice Commission shall be permitted to use staff assistants as required.

22. The Military Armistice Commission shall be provided with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing record-keeping secretarial, interpreting, and such other functions as the Commission may assign to it. Each side shall appoint to the Secretariat a Secretary and an Assistant Secretary and such clerical and specialized personnel as required by the Secretariat. Records shall be kept in English, Korean, and Chinese, all of which shall be equally authentic

23. a. The Military Armistice Commission shall be initially provided with and assisted by ten (10) Joint Observer Teams, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission.

b. Each Joint Observer Team shall be composed of not less than four (4) nor more than six (6) officers of field grade, half of whom shall be appointed by the Commander-in-Chief, United Nations Command, and half of whom shall be appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Additional personnel such as drivers, clerks, and interpreters shall be furnished by each side as required for the functioning of the Joint Observer Teams.

24. The general mission of the Military Armistice Commission shall be to supervise the implementation of this Armistice Agreement and to settle through negotiations any violations of this Armistice Agreement.

25. The Military Armistice Commission shall:

a. Locate its headquarters in the vicinity of PANMUNJOM (37°57′29″ N, 126°40′00″ E). The Military Armistice Commission may re-locate its headquarters at another point within the Demilitarized Zone by agreement of the senior members of both sides on he Commission.

b. Operate as a joint organization without a chairman.

c. Adopt such rules of procedures as it may, from time to time, deem necessary.

d. Supervise the carrying out of the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

e. Direct the operations of the Joint Observer Teams.

f. Settle through negotiations any violations of this Armistice Agreement.

g. Transmit immediately to the Commanders of the opposing sides all reports of investigations of violations of this Armistice Agreement and all other reports and records of proceedings received from the Neutral Nations Supervisory Commission.

h. Give general supervision and direction to the activities of the Committee for Repatriation of Prisoners of War and the Committee for Assisting the Return of Displaced Civilians, hereinafter established.

i. Act as an intermediary in transmitting communications between the Commanders of the opposing sides; provided, however that the foregoing shall not be construed to preclude the Commanders of both sides from communicating with each other by any other means which they may desire to employ.

j. Provide credentials and distinctive insignia for its staff and its Joint Observer Teams, and a distinctive marking for all vehicles aircraft, and vessels, used in the performance of its mission.

26. The mission of the Joint Observer Teams shall be to assist the Military Armistice Commission in supervising the carrying out o the provisions of this Armistice Agreement pertaining to the Demilitarized Zone and to the Han River Estuary.

27. The Military Armistice Commission, or the senior member o either side thereof, is authorized to dispatch Joint Observer Teams to investigate violations of this Armistice Agreement reported to have occurred in the Demilitarized Zone or in the Han River Estuary provided, however, that not more than one half of the Joint Observer Teams which have not been dispatched by the Military Armistice Commission may be dispatched at any one time by the senior member of either side on the Commission.

28. The Military Armistice Commission, or the senior member of either side thereof, is authorized to request the Neutral Nations Supervisory Commission to conduct special observations and inspections at places outside the Demilitarized Zone where violations of this Armistice Agreement have been reported to have occurred.

29. When the Military Armistice Commission determines that a violation of this Armistice Agreement has occurred, it shall immediately report such violation to the Commanders of the opposing sides

30. When the Military Armistice Commission determines that a violation of this Armistice Agreement has been corrected to its satisfaction, it shall so report to the Commanders of the opposing sides

3. GENERAL

31. The Military Armistice Commission shall meet daily. Recesses of not to exceed seven (7) days may be agreed upon by the senior members of both sides; provided, that such recesses may be terminated on twenty-four (24) hour notice by the senior member of either side

32. Copies of the record of the proceedings of all meetings of the Military Armistice Commission shall be forwarded to the Commanders of the opposing sides as soon as possible after each meeting

33. The Joint Observer Teams shall make periodic reports to the Military Armistice Commission as required by the Commission and, in addition, shall make such special reports as may be deemed necessary by them, or as may be required by the Commission.

34. The Military Armistice Commission shall maintain duplicate files of the reports and records of proceedings required by this Armistice Agreement. The Commission is authorized to maintain duplicate files of such other reports, records, etc., as may be necessary in the conduct of its business. Upon eventual dissolution of the Commission one set of the above files shall be turned over to each side.

35. The Military Armistice Commission may make recommendations to the Commanders of the opposing sides with respect to amendments or additions to this Armistice Agreement. Such recommended changes should generally be those designed to insure a more effective armistice.

C. Neutral Nations Supervisory Commission

1. COMPOSITION

36. A Neutral Nations Supervisory Commission is hereby established.

37. The Neutral Nations Supervisory Commission shall be composed of four (4) senior officers, two (2) of whom shall be appointed by neutral

pated in the hostilities in Korea. Members appointed to the Commission may be from the armed forces of the appointing nations. Each member shall designate an alternate member to attend those meetings which for any reason the principal member is unable to attend. Such alternate members shall be of the same nationality as their principals. The Neutral Nations Supervisory Commission may take action whenever the number of members present from the neutral nations nominated by one side is equal to the number of members present from the neutral nations nominated by the other side.

38. Members of the Neutral Nations Supervisory Commission shall be permitted to use staff assistants furnished by the neutral nations as required. These staff assistants may be appointed as alternate members of the Commission.

39. The neutral nations shall be requested to furnish the Neutral Nations Supervisory Commission with the necessary administrative personnel to establish a Secretariat charged with assisting the Commission by performing necessary record-keeping, secretarial, interpreting, and such other functions as the Commission may assign to it.

40. a. The Neutral Nations Supervisory Commission shall be initially provided with, and assisted by, twenty (20) Neutral Nations Inspection Teams, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission. The Neutral Nations Inspection Teams shall be responsible to, shall report to, and shall be subject to the direction of, the Neutral Nations Supervisory Commission only.

b. Each Neutral Nations Inspection Team shall be composed of not less than four (4) officers, preferably of field grade, half of whom shall be from the neutral nations nominated by the Commander-in-Chief, United Nations Command, and half of whom shall be from the neutral nations nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. Members appointed to the Neutral Nations Inspection Teams may be from the armed forces of the appointing nations. In order to facilitate the functioning of the Teams, sub-teams composed of not less than two (2) members, one of whom shall be from a neutral nation nominated by the Commander-in-Chief, United Nations Command, and one of whom shall be from a neutral nation nominated jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, may be formed as circumstances require. Additional personnel such as drivers, clerks, interpreters, and communications personnel, and such equipment as may be required by the Teams to perform their missions, shall be furnished by the Commander of each side, as required, in the De

2. FUNCTIONS AND AUTHORITY

41. The mission of the Neutral Nations Supervisory Commission shall be to carry out the functions of supervision, observation, inspection, and investigation, as stipulated in Sub-paragraphs 13c and 13d and Paragraph 28 hereof, and to report the results of such supervision, observation, inspection, and investigation to the Military Armistice Commission.

42. The Neutral Nations Supervisory Commission shall:

a. Locate its headquarters in proximity to the headquarters of the Military Armistice Commission.

b. Adopt such rules of procedure as it may, from time to time, deem necessary.

c. Conduct, through its members and its Neutral Nations Inspection Teams, the supervision and inspection provided for in Sub-paragraphs 13c and 13d of this Armistice Agreement at the ports of entry enumerated in Paragraph 43 hereof, and the special observations and inspections provided for in Paragraph 28 hereof at those places where violations of this Armistice Agreement have been reported to have occurred. The inspection of combat aircraft, armored vehicles, weapons, and ammunition by the Neutral Nations Inspection Teams shall be such as to enable them to properly insure that reinforcing combat aircraft, armored vehicles, weapons, and ammunition are not being introduced into Korea; but this shall not be construed as authorizing inspections or examinations of any secret designs or characteristics of any combat aircraft, armored vehicle, weapon, or ammunition.

d. Direct and supervise the operations of the Neutral Nations Inspection Teams.

e. Station five (5) Neutral Nations Inspection Teams at the ports of entry enumerated in Paragraph 43 hereof located in the territory under the military control of the Commander-in-Chief, United Nations Command; and five (5) Neutral Nations Inspection Teams at the ports of entry enumerated in Paragraph 43 hereof located in the territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers; and establish initially ten (10) mobile Neutral Nations Inspection Teams in reserve, stationed in the general vicinity of the headquarters of the Neutral Nations Supervisory Commission, which number may be reduced by agreement of the senior members of both sides on the Military Armistice Commission. Not more than half of the mobile Neutral Nations Inspection Teams shall be dispatched at any one time in accordance with requests of the senior member of either side on the Military Armistice Commission.

f. Subject to the provisions of the preceding Sub-paragraph, conduct without delay investigations of reported violations of this Armistice Agreement, including such investigations of reported violations of this Armistice Agreement as may be requested by the Military Armistice Commission or by the senior member of either side on the Commission.

ts Neutral Nations Inspection Teams, and a distinctive marking for ll vehicles, aircraft, and vessels, used in the performance of its mission.

43. Neutral Nations Inspection Teams shall be stationed at the ollowing ports of entry:

'erritory under the military control f the United Nations Command		Territory under the military contro of the Korean People's Army anc the Chinese People's Volunteers	
NCHON	(37°28′N, 126°38′E)	SINUIJU	(40°06′N, 124°24′E
TAEGU	(35°52′N, 128°36′E)	CHONGJIN	(41°46′N, 129°49′E
PUSAN	(35°06′N, 129°02′E)	HUNGNAM	(39°50′N, 127°37′E
KANGNUNG	(37°45′N, 128°54′E)	MANPO	(41°09′N, 126°18′E
KUNSAN	(35°59′N, 126°43′E)	SINANJU	(39°36′N, 125°36′E

These Neutral Nations Inspection Teams shall be accorded ful convenience of movement within the areas and over the routes o communication set forth on the attached map (Map 5).

3. GENERAL

44. The Neutral Nations Supervisory Commission shall mee daily. Recesses of not to exceed seven (7) days may be agreed upon by the members of the Neutral Nations Supervisory Commission provided, that such recesses may be terminated on twenty-four (24 hour notice by any member.

45. Copies of the record of the proceedings of all meetings of the Neutral Nations Supervisory Commission shall be forwarded to the Military Armistice Commission as soon as possible after each meeting Records shall be kept in English, Korean, and Chinese.

46. The Neutral Nations Inspection Teams shall make periodi reports concerning the results of their supervision, observations, in spections, and investigations to the Neutral Nations Supervisor Commission as required by the Commission and, in addition, shal make such special reports as may be deemed necessary by them, o as may be required by the Commission. Reports shall be submitte by a Team as a whole, but may also be submitted by one or mor individual members thereof; provided, that the reports submitte by one or more individual members thereof shall be considered a informational only.

47. Copies of the reports made by the Neutral Nations Inspectio Teams shall be forwarded to the Military Armistice Commission b the Neutral Nations Supervisory Commission without delay and i the language in which received. They shall not be delayed by th process of translation or evaluation. The Neutral Nations Super visory Commission shall evaluate such reports at the earliest prac ticable time and shall forward their findings to the Military Armistic Commission as a matter of priority. The Military Armistice Com mission shall not take final action with regard to any such repor until the evaluation thereof has been received from the Neutra Nations Supervisory Commission. Members of the Neutral Nation Supervisory Commission and of its Teams shall be subject to appea

senior member of either side on the Military Armistice Commission for clarification of any report submitted.

48. The Neutral Nations Supervisory Commission shall maintai duplicate files of the reports and records of proceedings required b this Armistice Agreement. The Commission is authorized to maintai duplicate files of such other reports, records, etc., as may be necessar in the conduct of its business. Upon eventual dissolution of th Commission, one set of the above files shall be turned over to eac side.

49. The Neutral Nations Supervisory Commission may mak recommendations to the Military Armistice Commission with respec to amendments or additions to this Armistice Agreement. Suc recommended changes should generally be those designed to insure more effective armistice.

50. The Neutral Nations Supervisory Commission, or any membe thereof, shall be authorized to communicate with any member of th Military Armistice Commission.

ARTICLE III

ARRANGEMENTS RELATING TO PRISONERS OF WAR

51. The release and repatriation of all prisoners of war held in the custody of each side at the time this Armistice Agreement becomes effective shall be effected in conformity with the following provisions agreed upon by both sides prior to the signing of this Armistice Agreement.

a. Within sixty (60) days after this Armistice Agreement becomes effective, each side shall, without offering any hindrance, directly repatriate and hand over in groups all those prisoners of wa in its custody who insist on repatriation to the side to which they belonged at the time of capture. Repatriation shall be accomplishe in accordance with the related provisions of this Article. In orde to expedite the repatriation process of such personnel, each side shall prior to the signing of the Armistice Agreement, exchange the tota numbers, by nationalities, of personnel to be directly repatriated Each group of prisoners of war delivered to the other side shall be accompanied by rosters, prepared by nationality, to include name rank (if any) and internment or military serial number.

b. Each side shall release all those remaining prisoners of war, who are not directly repatriated, from its military control and from its custody and hand them over to the Neutral Nations Repatriatio Commission for disposition in accordance with the provisions in the Annex hereto: "Terms of Reference for Neutral Nations Repatriatio Commission."

c. So that there may be no misunderstanding owing to th equal use of three languages, the act of delivery of a prisoner of wa by one side to the other side shall, for the purposes of this Armistice Agreement, be called "repatriation" in English, " 송환 " (SONG notwithstanding the nationality or place of residence of such of war.

52. Each side insures that it will not employ in acts of Korean conflict any prisoner of war released and repatriate to the coming into effect of this Armistice Agreement.

53. All the sick and injured prisoners of war who in repatriation shall be repatriated with priority. Insofar as there shall be captured medical personnel repatriated co with the sick and injured prisoners of war, so as to provid care and attendance en route.

54. The repatriation of all of the prisoners of war re Sub-paragraph 51a hereof shall be completed within a tim sixty (60) days after this Armistice Agreement becomes Within this time limit each side undertakes to complete the tion of the above-mentioned prisoners of war in its custo earliest practicable time.

55. PANMUNJOM is designated as the place where pr war will be delivered and received by both sides. Addition of delivery and reception of prisoners of war in the Demilita may be designated, if necessary, by the Committee for Re of Prisoners of War.

56. a. A Committee for Repatriation of Prisoners o hereby established. It shall be composed of six (6) office grade, three (3) of whom shall be appointed by the Comm Chief, United Nations Command, and three (3) of whom appointed jointly by the Supreme Commander of the Korea Army and the Commander of the Chinese People's Volunte Committee shall, under the general supervision and direct Military Armistice Commission, be responsible for coordi specific plans of both sides for the repatriation of prisoners for supervising the execution by both sides of all of the pr this Armistice Agreement relating to the repatriation of p war. It shall be the duty of this Committee to coordinate of the arrival of prisoners of war at the place(s) of del reception of prisoners of war from the prisoner of war cam sides; to make, when necessary, such special arrangements required with regard to the transportation and welfare o injured prisoners of war; to coordinate the work of the joint teams, established in Paragraph 57 hereof, in assisting in the tion of prisoners of war; to supervise the implementati arrangements for the actual repatriation of prisoners of war in Paragraphs 53 and 54 hereof; to select, when necessary, place(s) of delivery and reception of prisoners of war; to a security at the place(s) of delivery and reception of prisone and to carry out such other related functions as are requir repatriation of prisoners of war.

b. When unable to reach agreement on any matte to its responsibilities, the Committee for Repatriation of P War shall immediately refer such matter to the Military

Prisoners of War shall maintain its headquarters in proximity to the headquarters of the Military Armistice Commission.

c. The Committee for Repatriation of Prisoners of War shall be dissolved by the Military Armistice Commission upon completion of the program of repatriation of prisoners of war.

57. a. Immediately after this Armistice Agreement becomes effective, joint Red Cross teams composed of representatives of the national Red Cross Societies of the countries contributing forces to the United Nations Command on the one hand, and representatives of the Red Cross Society of the Democratic People's Republic of Korea and representatives of the Red Cross Society of the People's Republic of China on the other hand, shall be established. The joint Red Cross teams shall assist in the execution by both sides of those provisions of this Armistice Agreement relating to the repatriation of all the prisoners of war specified in Sub-paragraph 51a hereof, who insist upon repatriation, by the performance of such humanitarian services as are necessary and desirable for the welfare of the prisoners of war. To accomplish this task, the joint Red Cross teams shall provide assistance in the delivering and receiving of prisoners of war by both sides at the place(s) of delivery and reception of prisoners of war, and shall visit the prisoner of war camps of both sides to comfort the prisoners of war and to bring in and distribute gift articles for the comfort and welfare of the prisoners of war. The joint Red Cross teams may provide services to prisoners of war while en route from prisoner of war camps to the place(s) of delivery and reception of prisoners of war.

b. The joint Red Cross teams shall be organized as set forth below:

(1) One team shall be composed of twenty (20) members, namely, ten (10) representatives from the national Red Cross Societies of each side, to assist in the delivering and receiving of prisoners of war by both sides at the place(s) of delivery and reception of prisoners of war. The chairmanship of this team shall alternate daily between representatives from the Red Cross Societies of the two sides. The work and services of this team shall be coordinated by the Committee for Repatriation of Prisoners of War.

(2) One team shall be composed of sixty (60) members, namely, thirty (30) representatives from the national Red Cross Societies of each side, to visit the prisoner of war camps under the administration of the Korean People's Army and the Chinese People's Volunteers. This team may provide services to prisoners of war while en route from the prisoner of war camps to the place(s) of delivery and reception of prisoners of war. A representative of the Red Cross Society of the Democratic People's Republic of Korea or of the Red Cross Society of the People's Republic of China shall serve as chairman of this team.

(3) One team shall be composed of sixty (60) members, namely, thirty (30) representatives from the national Red Cross Societies of each side, to visit the prisoner of war camps under the

war camps to the place(s) of delivery and reception of prisoners o war. A representative of a Red Cross Society of a nation contributing orces to the United Nations Command shall serve as chairman of this team.

(4) In order to facilitate the functioning of each joint Red Cross team, sub-teams composed of not less than two (2) members from the team, with an equal number of representatives from each side, may be formed as circumstances require.

(5) Additional personnel such as drivers, clerks, and interpreters, and such equipment as may be required by the joint Red Cross teams to perform their missions, shall be furnished by th Commander of each side to the team operating in the territory unde his military control.

(6) Whenever jointly agreed upon by the representatives o both sides on any joint Red Cross team, the size of such team may b increased or decreased, subject to confirmation by the Committee fo Repatriation of Prisoners of War.

c. The Commander of each side shall cooperate fully with th joint Red Cross teams in the performance of their functions, and ndertakes to insure the security of the personnel of the joint Red Cross team in the area under his military control. The Commander o each side shall provide such logistic, administrative, and communications facilities as may be required by the team operating in th territory under his military control.

d. The joint Red Cross teams shall be dissolved upon completion of the program of repatriation of all the prisoners of war specifie in Sub-paragraph 51a hereof, who insist upon repatriation.

58. a. The Commander of each side shall furnish to the Commande of the other side as soon as practicable, but not later than ten (10) day after this Armistice Agreement becomes effective, the following information concerning prisoners of war:

(1) Complete data pertaining to the prisoners of war wh escaped since the effective date of the data last exchanged.

(2) Insofar as practicable, information regarding name nationality, rank, and other identification data, date and cause o death, and place of burial, of those prisoners of war who died whil in his custody.

b. If any prisoners of war escape or die after the effective dat of the supplementary information specified above, the detaining sid shall furnish to the other side, through the Committee for Repatriatio of Prisoners of War, the data pertaining thereto in accordance with th provisions of Sub-paragraph 58a hereof. Such data shall be furnishe at ten-day intervals until the completion of the program of deliver and reception of prisoners of war.

c. Any escaped prisoner of war who returns to the custody o the detaining side after the completion of the program of deliver

59. a. All civilians who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Commander-in-Chief, United Nations Command, and who, on 24 June 1950, resided north of the Military Demarcation Line established in this Armistice Agreement shall, if they desire to return home, be permitted and assisted by the Commander-in-Chief, United Nations Command, to return to the area north of the Military Demarcation Line; and all civilians who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, and who, on 24 June 1950, resided south of the Military Demarcation Line established in this Armistice Agreement shall, if they desire to return home, be permitted and assisted by the Supreme Commander of the Korean People's Army and he Commander of the Chinese People's Volunteers to return to the area south of the Military Demarcation Line. The Commander of each side shall be responsible for publicizing widely throughout terriory under his military control the contents of the provisions of this Sub-paragraph, and for calling upon the appropriate civil authorities to give necessary guidance and assistance to all such civilians who desire to return home.

b. All civilians of foreign nationality who, at the time this Armistice Agreement becomes effective, are in territory under the ilitary control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers shall, if they desire to proceed to territory under the military control of the Commander-in-Chief, United Nations Command, be permitted and assisted to do so; all civilians of foreign nationality who, at the time this Armistice Agreement becomes effective, are in territory under the military control of the Commander-in-Chief, United Nations Command, shall, if they desire to proceed to territory under the military control of the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, be permitted and assisted to do so. The Commander of each side shall be responsible for publicizing widely throughout the territory under his military control the contents of the provisions of this Sub-paragraph, and for calling upon the appropriate civil authorities to give necessary guidance and assistance to all such civilians of foreign nationality who desire to proceed to territory under the military control of the Commander of the other side.

c. Measures to assist in the return of civilians provided for in Sub-paragraph 59a hereof and the movement of civilians provided for in Sub-paragraph 59b hereof shall be commenced by both sides as soon as possible after this Armistice Agreement becomes effective.

d. (1) A Committee for Assisting the Return of Displaced Civilians is hereby established. It shall be composed of four (4) officers of field grade, two (2) of whom shall be appointed by the Command appointed jointly by the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers. This Committee shall, under the general supervision and direction of the Military Armistice Commission, be responsible for coordinating the specific plans of both sides for assistance to the return of the above-mentioned civilians, and for supervising the execution by both sides of all of the provisions of this Armistice Agreement relating to the return of the above-mentioned civilians. It shall be the duty of this Committee to make necessary arrangements, including those of transportation, for expediting and coordinating the movement of the above-mentioned civilians; to select the crossing point(s) through which the above-mentioned civilians will cross the Military Demarcation Line; to arrange for security at the crossing point(s); and to carry out such other functions as are required to accomplish the return of the above-mentioned civilians.

(2) When unable to reach agreement on any matter relating to its responsibilities, the Committee for Assisting the Return of Displaced Civilians shall immediately refer such matter to the Military Armistice Commission for decision. The Committee for Assisting the Return of Displaced Civilians shall maintain its headquarters in proximity to the headquarters of the Military Armistice Commission.

(3) The Committee for Assisting the Return of Displaced Civilians shall be dissolved by the Military Armistice Commission upon fulfillment of its mission.

ARTICLE IV

Recommendation to the Governments Concerned on Both Sides

60. In order to insure the peaceful settlement of the Korean question, the military Commanders of both sides hereby recommend to the governments of the countries concerned on both sides that, within three (3) months after the Armistice Agreement is signed and becomes effective, a political conference of a higher level of both sides be held by representatives appointed respectively to settle through negotiation the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc.

ARTICLE V

Miscellaneous

61. Amendments and additions to this Armistice Agreement must be mutually agreed to by the Commanders of the opposing sides.

62. The Articles and Paragraphs of this Armistice Agreement shall remain in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides.

63. All of the provisions of this Armistice Agreement, other than Paragraph 12, shall become effective at 2200 hours on 27 July 1953

Done at Panmunjom, Korea, at 1000 hours on the 27th day o July, 1953, in English, Korean, and Chinese, all texts being equally authentic.

. . . .

ANNEX

TERMS OF REFERENCE FOR NEUTRAL NATIONS REPATRIATION COMMISSION

(See Sub-paragraph 51b)

I

General

1. In order to ensure that all prisoners of war have the opportunity to exercise their right to be repatriated following an armistice, Sweden Switzerland, Poland, Czechoslovakia and India shall each be requested by both sides to appoint a member to a Neutral Nations Repatriation Commission which shall be established to take custody in Korea of those prisoners of war who, while in the custody of th detaining powers, have not exercised their right to be repatriated The Neutral Nations Repatriation Commission shall establish it headquarters within the Demilitarized Zone in the vicinity of Panmunjom, and shall station subordinate bodies of the same composition as the Neutral Nations Repatriation Commission at those locations at which the Repatriation Commission assumes custody o prisoners of war. Representatives of both sides shall be permitted t observe the operations of the Repatriation Commission and its subordinate bodies to include explanations and interviews.

2. Sufficient armed forces and any other operating personnel required to assist the Neutral Nations Repatriation Commission i carrying out its functions and responsibilities shall be provide exclusively by India, whose representative shall be the umpire in accordance with the provisions of Article 132 of the Geneva Convention,[1] and shall also be chairman and executive agent of the Neutra Nations Repatriation Commission. Representatives from each o the other four powers shall be allowed staff assistants in equal number not to exceed fifty (50) each. When any of the representative of the neutral nations is absent for some reason, that representativ

3. No force or threat of force shall be used against the prisoners of war specified in Paragraph 1 above to prevent or effect their repatriation, and no violence to their persons or affront to their dignity or self-respect shall be permitted in any manner for any purpose whatsoever (but see Paragraph 7 below). This duty is enjoined on and entrusted to the Neutral Nations Repatriation Commission. This Commission shall ensure that prisoners of war shall at all times be treated humanely in accordance with the specific provisions of the Geneva Convention, and with the general spirit of that Convention.

II

Custody of Prisoners of War

4. All prisoners of war who have not exercised their right of repatriation following the effective date of the Armistice Agreement shall be released from the military control and from the custody of the detaining side as soon as practicable, and, in all cases, within sixty (60) days subsequent to the effective date of the Armistice Agreement to the Neutral Nations Repatriation Commission at locations in Korea to be designated by the detaining side.

5. At the time the Neutral Nations Repatriation Commission assumes control of the prisoner of war installations, the military forces of the detaining side shall be withdrawn therefrom, so that the locations specified in the preceding Paragraph shall be taken over completely by the armed forces of India.

6. Notwithstanding the provisions of Paragraph 5 above, the detaining side shall have the responsibility for maintaining and ensuring security and order in the areas around the locations where the prisoners of war are in custody and for preventing and restraining any armed forces (including irregular armed forces) in the area under its control from any acts of disturbance and intrusion against the locations where the prisoners of war are in custody.

7. Notwithstanding the provisions of Paragraph 3 above, nothing in this agreement shall be construed as derogating from the authority of the Neutral Nations Repatriation Commission to exercise its legitimate functions and responsibilities for the control of the prisoners of war under its temporary jurisdiction.

III

Explanation

8. The Neutral Nations Repatriation Commission, after having received and taken into custody all those prisoners of war who have

to return home to lead a peaceful life, under the following provisions

a. The number of such explaining representatives shall no exceed seven (7) per thousand prisoners of war held in custody by the Neutral Nations Repatriation Commission; and the minimum authorized shall not be less than a total of five (5);

b. The hours during which the explaining representatives shall have access to the prisoners shall be as determined by the Neutral Nations Repatriation Commission, and generally in accord with Article 53 of the Geneva Convention Relative to the Treatment of Prisoners of War;

c. All explanations and interviews shall be conducted in the presence of a representative of each member nation of the Neutral Nations Repatriation Commission and a representative from the detaining side;

d. Additional provisions governing the explanation work shall be prescribed by the Neutral Nations Repatriation Commission, and will be designed to employ the principles enumerated in Paragraph 3 above and in this Paragraph;

e. The explaining representatives, while engaging in their work, shall be allowed to bring with them necessary facilities and personnel for wireless communications. The number of communications personnel shall be limited to one team per location at which explaining epresentatives are in residence, except in the event all prisoners of war are concentrated in one location, in which case, two (2) teams shall be permitted. Each team shall consist of not more than six (6) communications personnel.

9. Prisoners of war in its custody shall have freedom and facilities to make representations and communications to the Neutral Nations Repatriation Commission and to representatives and subordinate bodies of the Neutral Nations Repatriation Commission and to inform them of their desires on any matter concerning the prisoners of war themselves, in accordance with arrangements made for the purpose by the Neutral Nations Repatriation Commission.

IV

Disposition of Prisoners of War

10. Any prisoner of war who, while in the custody of the Neutral Nations Repatriation Commission, decides to exercise the right of repatriation, shall make an application requesting repatriation to a body consisting of a representative of each member nation of the Neutral Nations Repatriation Commission. Once such an application is made, it shall be considered immediately by the Neutral Nations Repatriation Commission or one of its subordinate bodies so as to determine immediately by majority vote the validity of such application. Once such an application is made to and validated by the Commission or one of its subordinate bodies, the prisoner of war

the tents set up for those who are ready to be repatriated. Thereafter, he shall, while still in the custody of the Neutral Nations Repatriation Commission, be delivered forthwith to the prisoner of war exchange point at Panmunjom for repatriation under the procedure prescribed in the Armistice Agreement.

11. At the expiration of ninety (90) days after the transfer of custody of the prisoners of war to the Neutral Nations Repatriation Commission, access of representatives to captured personnel as provided for in Paragraph 8 above, shall terminate, and the question of disposition of the prisoners of war who have not exercised their right to be repatriated shall be submitted to the Political Conference recommended to be convened in Paragraph 60, Draft Armistice Agreement, which shall endeavor to settle this question within thirty (30) days, during which period the Neutral Nations Repatriation Commission shall continue to retain custody of those prisoners of war. The Neutral Nations Repatriation Commission shall declare the relief from the prisoner of war status to civilian status of any prisoners of war who have not exercised their right to be repatriated and for whom no other disposition has been agreed to by the Political Conference within one hundred and twenty (120) days after the Neutral Nations Repatriation Commission has assumed their custody. Thereafter, according to the application of each individual, those who choose to go to neutral nations shall be assisted by the Neutral Nations Repatriation Commission and the Red Cross Society of India. This operation shall be completed within thirty (30) days, and upon its completion, the Neutral Nations Repatriation Commission shall immediately cease its functions and declare its dissolution. After the dissolution of the Neutral Nations Repatriation Commission, whenever and wherever any of those above-mentioned civilians who have been relieved from the prisoner of war status desire to return to their fatherlands, the authorities of the localities where they are shall be responsible for assisting them in returning to their fatherlands.

V

Red Cross Visitation

12. Essential Red Cross service for prisoners of war in custody of the Neutral Nations Repatriation Commission shall be provided by India in accordance with regulations issued by the Neutral Nations Repatriation Commission.

VI

Press Coverage

13. The Neutral Nations Repatriation Commission shall insure freedom of the press and other news media in observing the entire operation as enumerated herein, in accordance with procedures to be established by the Neutral Nations Repatriation Commission.

VII

Logistical Support for Prisoners of War

14. Each side shall provide logistical support for the prisoners o war in the area under its military control, delivering required suppor to the Neutral Nations Repatriation Commission at an agreed delivery point in the vicinity of each prisoner of war installation.

15. The cost of repatriating prisoners of war to the exchange poin at Panmunjom shall be borne by the detaining side and the cost from th exchange point by the side on which said prisoners depend, in accordance with Article 118 of the Geneva Convention.

16. The Red Cross Society of India shall be responsible for providing such general service personnel in the prisoner of war installation as required by the Neutral Nations Repatriation Commission.

17. The Neutral Nations Repatriation Commission shall provid medical support for the prisoners of war as may be practicable. Th detaining side shall provide medical support as practicable upon th request of the Neutral Nations Repatriation Commission and specifically for those cases requiring extensive treatment or hospitalization. The Neutral Nations Repatriation Commission shall maintai custody of prisoners of war during such hospitalization. The detaining side shall facilitate such custody. Upon completion of treatment prisoners of war shall be returned to a prisoner of war installation a specified in Paragraph 4 above.

18. The Neutral Nations Repatriation Commission is entitled t obtain from both sides such legitimate assistance as it may requir in carrying out its duties and tasks, but both sides shall not under an name and in any form interfere or exert influence.

VIII

Logistical Support for the Neutral Nations Repatriation Commissio

19. Each side shall be responsible for providing logistical suppor for the personnel of the Neutral Nations Repatriation Commissio stationed in the area under its military control, and both sides shal contribute on an equal basis to such support within the Demilitarize Zone. The precise arrangements shall be subject to determinatio between the Neutral Nations Repatriation Commission and the detaining side in each case.

20. Each of the detaining sides shall be responsible for protecting the explaining representatives from the other side while in transi over lines of communication within its area, as set forth in Paragrap

ing representatives of the other side while they are in the area under its military control. Such services shall be provided on a reimbursable basis.

IX

Publication

22. After the Armistice Agreement becomes effective, the terms of this agreement shall be made known to all prisoners of war who, while in the custody of the detaining side, have not exercised their right to be repatriated.

X

Movement

23. The movement of the personnel of the Neutral Nations Repatriation Commission and repatriated prisoners of war shall be over lines of communication as determined by the command(s) of the opposing side and the Neutral Nations Repatriation Commission. A map showing these lines of communication shall be furnished the command of the opposing side and the Neutral Nations Repatriation Commission. Movement of such personnel, except within locations as designated in Paragraph 4 above, shall be under the control of, and escorted by, personnel of the side in whose area the travel is being undertaken; however, such movement shall not be subject to any obstruction and coercion.

XI

Procedural Matters

24. The interpretation of this agreement shall rest with the Neutral Nations Repatriation Commission. The Neutral Nations Repatriation Commission, and/or any subordinate bodies to which functions are delegated or assigned by the Neutral Nations Repatriation Commission, shall operate on the basis of majority vote.

25. The Neutral Nations Repatriation Commission shall submit a weekly report to the opposing Commanders on the status of prisoners of war in its custody, indicating the numbers repatriated and remaining at the end of each week.

26. When this agreement has been acceded to by both sides and by the five powers named herein, it shall become effective upon the date the Armistice becomes effective.

Done at Panmunjom, Korea, at 1400 hours on the 8th day of June the Commander of the Chinese People's Volunteers, on the other hand, in pursuance of the provisions in Paragraph 61, Article V of the Agreement concerning a military armistice in Korea, agree to conclude the following Temporary Agreement supplementary to the Armistice Agreement:

1. Under the provisions of Paragraphs 4 and 5, Article II of the Terms of Reference for Neutral Nations Repatriation Commission, the United Nations Command has the right to designate the area between the Military Demarcation Line and the eastern and southern boundaries of the Demilitarized Zone between the Imjin River on the south and the road leading south from Okum-ni on the northeast (the main road leading southeast from Panmunjom not included), as the area within which the United Nations Command will turn over the prisoners of war, who are not directly repatriated and whom the United Nations Command has the responsibility for keeping under its custody, to the Neutral Nations Repatriation Commission and the armed forces of India for custody. The United Nations Command shall, prior to the signing of the Armistice Agreement, inform the side of the Korean People's Army and the Chinese People's Volunteers of the approximate figures by nationality of such prisoners of war held in its custody.

2. If there are prisoners of war under their custody who request not to be directly repatriated, the Korean People's Army and the Chinese People's Volunteers have the right to designate the area in the vicinity of Panmunjom between the Military Demarcation Line nd the western and northern boundaries of the Demilitarized Zone, as the area within which such prisoners of war will be turned over to the Neutral Nations Repatriation Commission and the armed forces o India for custody. After knowing that there are prisoners of war under their custody who request not to be directly repatriated, the Korean People's Army and the Chinese People's Volunteers shall inform the United Nations Command side of the approximate figures by nationality of such prisoners of war.

3. In accordance with Paragraphs 8, 9 and 10, Article I of the Armistice Agreement, the following paragraphs are hereby provided:

a. After the cease-fire comes into effect, unarmed personnel o each side shall be specifically authorized by the Military Armistice Commission to enter the above-mentioned area designated by their own side to perform necessary construction operations. None of such personnel shall remain in the above-mentioned areas upon the completion of the construction operations.

b. A definite number of prisoners of war as decided upon by both sides, who are in the respective custody of both sides and who are no directly repatriated, shall be specifically authorized by the Military Armistice Commission to be escorted respectively by a certain numbe of armed forces of the detaining sides to the above-mentioned area of custody designated respectively by both sides to be turned over t over, the armed forces of the detaining sides shall be withdrawn immediately from the areas of custody to the area under the control of their own side.

c. The personnel of the Neutral Nations Repatriation Commission and its subordinate bodies, the armed forces of India, the Red Cross Society of India, the explaining representatives and observation representatives of both sides, as well as the required material and equipment, for exercising the functions provided for in the Terms of Reference for Neutral Nations Repatriation Commission shall be specifically authorized by the Military Armistice Commission to have the complete freedom of movement to, from, and within the abovementioned areas designated respectively by both sides for the custody of prisoners of war.

4. The provisions of Sub-paragraph 3c of this agreement shall not be construed as derogating from the privileges enjoyed by those personnel mentioned above under Paragraph 11, Article I of the Armistice Agreement.

5. This Agreement shall be abrogated upon the completion of the mission provided for in the Terms of Reference for Neutral Nations Repatriation Commission.

Done at Panmunjom, Korea, at 1000 hours on the 27th day of July, 1953, in English, Korean, and Chinese, all texts being equally authentic.

. . . .

Indo-China

6. AGREEMENT ON THE CESSATION OF HOSTILITIES IN VIET-NAM, JULY 20, 1954 [1]

CHAPTER I

Provisional Military Demarcation Line and Demilitarized Zone

Article 1

A provisional military demarcation line shall be fixed, on either side of which the forces of the two parties shall be regrouped after their withdrawal, the forces of the People's Army of Viet-Nam to the north of the line and the forces of the French Union to the south.

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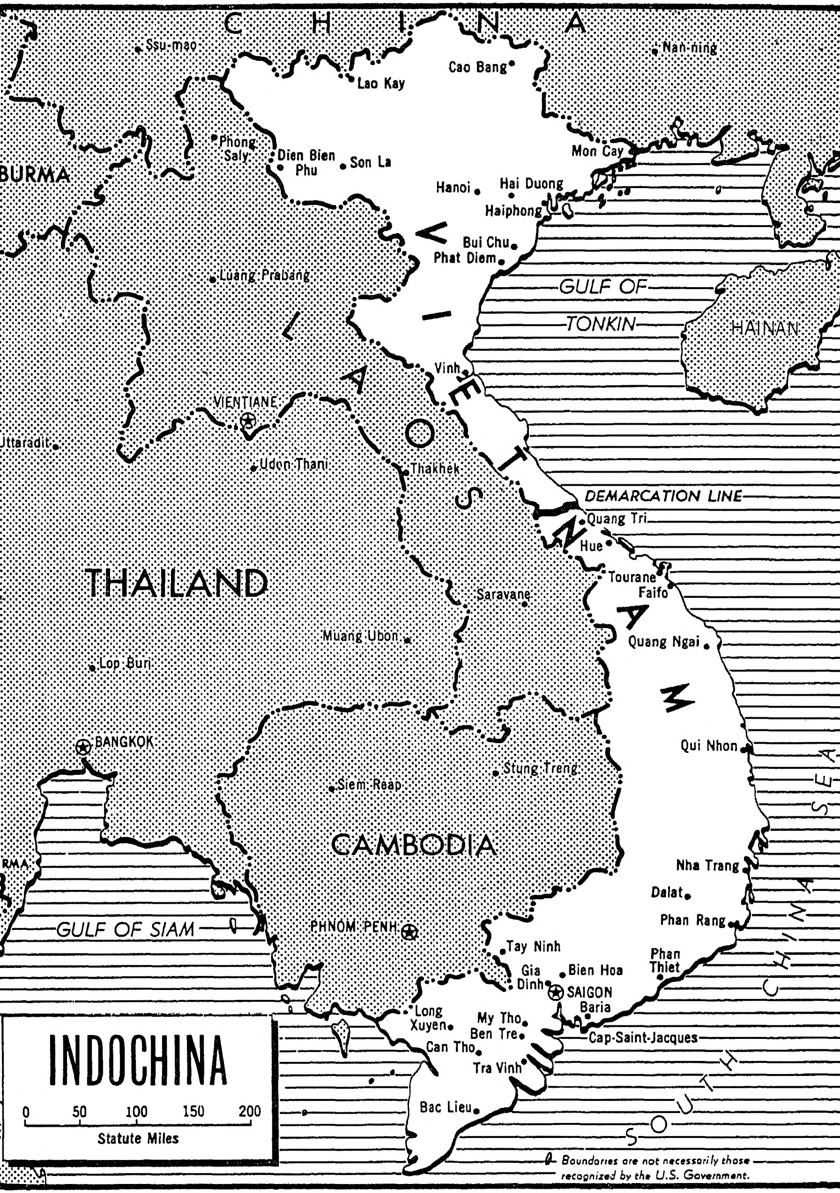
[1] Geneva Conference doc. IC/42/Rev. 2; reprinted in *Report on Indochina: Report of Senator Mike Mansfield on a Study Mission to Vietnam, Cambodia, Laos*, Oct. 15, 1954 (Senate Foreign Relations Committee print, 83d Cong., 2d sess.), pp. 16–26. For entry into force, see articles 11 and 47.



INDOCHINA

Boundaries are not necessarily those recognized by the U.S. Government.

CHINA
Ssu-mao
Nan-ning
Lao Kay
Cao Bang
Phong Saly
Dien Bien Phu
Son La
BURMA
Mon Cay
Hanoi
Hai Duong
Haiphong
Bui Chu
Phat Diem
Luang Prabang
GULF OF TONKIN
HAINAN
VIET NAM
LAOS
Vinh
VIENTIANE
Uttaradit
Udon Thani
Thakhek
DEMARCATION LINE
Quang Tri
Hue
Tourane
Faifo
THAILAND
Saravane
Muang Ubon
Quang Ngai
Lop Buri
BANGKOK
Qui Nhon
Stung Treng
Siem Reap
CAMBODIA
SOUTH CHINA SEA
RMA
Nha Trang
Dalat
Phan Rang
GULF OF SIAM
PHNOM PENH
Tay Ninh
Phan Thiet
Gia Dinh
Bien Hoa
SAIGON
Baria
Long Xuyen
My Tho
Ben Tre
Cap-Saint-Jacques
Can Tho
Tra Vinh
Bac Lieu
0 50 100 150 200
Statute Miles

The provisional military demarcation line is fixed as shown on the map attached (see Map No. 1).[1]

It is also agreed that a demilitarized zone shall be established on either side of the demarcation line, to a width of not more than 5 kms from it, to act as a buffer zone and avoid any incidents which might result in the resumption of hostilities.

Article 2

The period within which the movement of all the forces of either party into its regrouping zone on either side of the provisional military demarcation line shall be completed shall not exceed three hundred (300) days from the date of the present Agreement's entry into force

Article 3

When the provisional military demarcation line coincides with a waterway, the waters of such waterway shall be open to civil navigation by both parties wherever one bank is controlled by one party and the other bank by the other party. The Joint Commission shall establish rules of navigation for the stretch of waterway in question. The merchant shipping and other civilian craft of each party shall have unrestricted access to the land under its military control.

Article 4

The provisional military demarcation line between the two final regrouping zones is extended into the territorial waters by a line perpendicular to the general line of the coast.

All coastal islands north of this boundary shall be evacuated by the armed forces of the French Union, and all islands south of it shall be evacuated by the forces of the People's Army of Viet-Nam.

Article 5

To avoid any incidents which might result in the resumption of hostilities, all military forces, supplies and equipment shall be withdrawn from the demilitarized zone within twenty-five (25) days of the present Agreement's entry into force.

Article 6

No person, military or civilian, shall be permitted to cross the provisional military demarcation line unless specifically authorized to do so by the Joint Commission.

Article 7

Civil administration and relief in the demilitarized zone on either side of the provisional military demarcation line shall be the responsibility of the Commanders-in-Chief of the two parties in their respective zones. The number of persons, military or civilian, from each side who are permitted to enter the demilitarized zone for the conduct of civil administration and relief shall be determined by the respective Commanders, but in no case shall the total number authorized by either side exceed at any one time a figure to be determined by the Trung Gia Military Commission[1] or by the Joint Commission. The number of civil police and the arms to be carried by them shall be determined by the Joint Commission. No one else shall carry arms unless specifically authorized to do so by the Joint Commission.

Article 9

Nothing contained in this chapter shall be construed as limiting the complete freedom of movement, into, out of or within the demilitarized zone, of the Joint Commission, its joint groups, the International Commission to be set up as indicated below, its inspection teams and any other persons, supplies or equipment specifically authorized to enter the demilitarized zone by the Joint Commission. Freedom of ovement shall be permitted across the territory under the military control of either side over any road or waterway which has to be taken between points within the demilitarized zone when such points are not connected by roads or waterways lying completely within the demilitarized zone.

CHAPTER II

Principles and Procedure Governing Implementation of the Present Agreement

Article 10

The Commanders of the Forces on each side, on the one side the Commander-in-Chief of the French Union forces in Indo-China and on the other side the Commander-in-Chief of the People's Army of Viet-Nam, shall order and enforce the complete cessation of all hostilities in Viet-Nam by all armed forces under their control, including all units and personnel of the ground, naval and air forces.

Article 11

In accordance with the principle of a simultaneous cease-fire throughout Indo-China, the cessation of hostilities shall be simultaneous throughout all parts of Viet-Nam, in all areas of hostilities and for all the forces of the two parties.

Taking into account the time effectively required to transmit the cease-fire order down to the lowest échelons of the combatant forces country as follows:

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[1] The initial, on-the-scene, cease-fire commission set up on June 30, 1954, by the meeting of French and Vietminh military representatives at Trung Gia.

Northern Viet-Nam at 8.00 a.m. (local time) on 27 July 1954
Central Viet-Nam at 8.00 a.m. (local time) on 1 August 1954
Southern Viet-Nam at 8.00 a.m. (local time) on 11 August 1954

It is agreed that Pekin mean time shall be taken as local time.

From such time as the cease-fire becomes effective in Northern Viet-Nam, both parties undertake not to engage in any large-scale offensive action in any part of the Indo-Chinese theatre of operations and not to commit the air forces based on Northern Viet-Nam outside that sector. The two parties also undertake to inform each other of their plans for movement from one regrouping zone to another within twenty-five (25) days of the present Agreement's entry into force.

Article 12

All the operations and movements entailed in the cessation of hostilities and regrouping must proceed in a safe and orderly fashion:

(a) Within a certain number of days after the cease-fire Agreement shall have become effective, the number to be determined on the spot by the Trung Gia Military Commission, each party shall be responsible for removing and neutralizing mines (including river- and sea-mines), booby traps, explosives and any other dangerous substances placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there. All demolitions, mine fields, wire entanglements and other hazards to the free movement of the personnel of the Joint Commission and its joint groups, known to be present after the withdrawal of the military forces, shall be reported to the Joint Commission by the Commanders of the opposing forces;

(b) From the time of the cease-fire until regrouping is completed on either side of the demarcation line:

   (1) The forces of either party shall be provisonally withdrawn from the provisional assembly areas assigned to the other party.

   (2) When one party's forces withdraw by a route (road, rail, waterway, sea route) which passes through the territory of the other party (see Article 24), the latter party's forces must provisionally withdraw three kilometres on each side of such route, but in such a manner as to avoid interfering with the movements of the civil population.

Article 13

From the time of the cease-fire until the completion of the movements from one regrouping zone into the other, civil and military transport aircraft shall follow air-corridors between the provisiona assembly areas assigned to the French Union forces north of the demarcation line on the one hand and the Laotian frontier and the regrouping zone assigned to the French Union forces on the other hand

The position of the air-corridors, their width, the safety route for single-engined military aircraft transferred to the south and the search and rescue procedure for aircraft in distress shall be determined on the spot by the Trung Gia Military Commission.

Article 14

Political and administrative measures in the two regrouping zones, on either side of the provisional military demarcation line:

(a) Pending the general elections which will bring about the unification of Viet-Nam, the conduct of civil administration in each regrouping zone shall be in the hands of the party whose forces are to be regrouped there in virtue of the present Agreement;

(b) Any territory controlled by one party which is transferred to the other party by the regrouping plan shall continue to be administered by the former party until such date as all the troops who are to be transferred have completely left that territory so as to free the zone assigned to the party in question. From then on, such territory shall be regarded as transferred to the other party, who shall assume responsibility for it.

Steps shall be taken to ensure that there is no break in the transfer of responsibilities. For this purpose, adequate notice shall be given by the withdrawing party to the other party, which shall make the necessary arrangements, in particular by sending administrative and police detachments to prepare for the assumption of administrative responsibility. The length of such notice shall be determined by the Trung Gia Military Commission. The transfer shall be effected in successive stages for the various territorial sectors.

The transfer of the civil administration of Hanoi and Haiphong to the authorities of the Democratic Republic of Viet-Nam shall be completed within the respective time-limits laid down in Article 15 for military movements.

(c) Each party undertakes to refrain from any reprisals or discrimination against persons or organizations on account of their activities during the hostilities and to guarantee their democratic liberties.

(d) From the date of entry into force of the present Agreement until the movement of troops is completed, any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district.

Article 15

The disengagement of the combatants, and the withdrawals and transfers of military forces, equipment and supplies shall take place in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, equipment and supplies of the two parties shall be completed within three hundred (300) days, as laid down in Article 2 of the present Agreement;

(b) Within either territory successive withdrawals shall be made by sectors, portions of sectors or provinces. Transfers from one regrouping zone to another shall be made in successive monthly instalments proportionate to the number of troops to be transferred;

(c) The two parties shall undertake to carry out all troop withdrawals and transfers in accordance with the aims of the present Agreement, shall permit no hostile act and shall take no step whatsoever which might hamper such withdrawals and transfers. They shall assist one another as far as this is possible

(d) The two parties shall permit no destruction or sabotage of any public property and no injury to the life and property of the civil population. They shall permit no interference in loca civil administration;

(e) The Joint Commission and the International Commission shall ensure that steps are taken to safeguard the forces in the course of withdrawal and transfer;

(f) The Trung Gia Military Commission, and later the Joint Commission, shall determine by common agreement the exact procedure for the disengagement of the combatants and for troop withdrawals and transfers, on the basis of the principles mentioned above and within the framework laid down below

1. The disengagement of the combatants, including the concentration of the armed forces of all kinds and also each party's movements into the provisional assembly areas assigned to it and the other party's provisional withdrawal from it, shall be completed within a period not exceeding fifteen (15) days after the date when the cease-fire becomes effective.

The general delineation of the provisional assembly area is set out in the maps[1] annexed to the present Agreement.

In order to avoid any incidents, no troops shall be stationed less than 1,500 metres from the lines delimiting the provisiona assembly areas.

During the period until the transfers are concluded, all th

2. The withdrawals and transfers shall be effected in the following order and within the following periods (from the date of the entry into force of the present Agreement):

Forces of the French Union

Hanoi perimeter	– 80 days
Haiduong perimeter	– 100 days
Haiphong perimeter	– 300 days

Forces of the People's Army of Viet-Nam

Ham Tan and Xuyenmoc provisional assembly area	– 80 days
Central Viet-Nam provisional assembly area – first instalment	– 80 days
Plaine des Joncs provisional assembly area	– 100 days
Central Viet-Nam provisional assembly area – second instalment	– 100 days
Point Camau provisional assembly area	– 200 days
Central Viet-Nam provisional assembly area – last instalment	– 300 days

CHAPTER III

BAN ON THE INTRODUCTION OF FRESH TROOPS, MILITARY PERSONNEL, ARMS, AND MUNITIONS. MILITARY BASES

Article 16

With effect from the date of entry into force of the present Agreement, the introduction into Viet-Nam of any troop reinforcements and additional military personnel is prohibited.

It is understood, however, that the rotation of units and groups o ersonnel, the arrival in Viet-Nam of individual personnel on a temporary duty basis and the return to Viet-Nam of individual personnel after short periods of leave or temporary duty outside Viet-Nam shall be permitted under the conditions laid down below:

(a) Rotation of units (defined in paragraph (c) of this Article) and groups of personnel shall not be permitted for French Union troops stationed north of the provisional military demarcation line laid down in Article 1 of the present Agreement, during the

(b) "Rotation" is defined as the replacement of units or g
personnel by other units of the same échelon or by p
who are arriving in Viet-Nam territory to do their
service there;

(c) The units rotated shall never be larger than a battalion
corresponding échelon for air and naval forces;

(d) Rotation shall be conducted on a man-for-man basis, p
however, that in any one quarter neither party shall i
more than fifteen thousand five hundred (15,500) me
its armed forces into Viet-Nam under the rotation polic

(e) Rotation units (defined in paragraph (c) of this Arti
groups of personnel, and the individual personnel m
in this Article, shall enter and leave Viet-Nam only
the entry points enumerated in Article 20 below;

(f) Each party shall notify the Joint Commission and th
national Commission at least two days in advance
arrivals or departure of units, groups of personnel and in
personnel in or from Viet-Nam. Reports on the ar
departures of units, groups of personnel and individual p
in or from Viet-Nam shall be submitted daily to the Joi
mission and the International Commission.

All the above-mentioned notifications and repo
indicate the places and dates of arrival or departure
number of persons arriving or departing;

(g) The International Commission, through its Inspection
shall supervise and inspect the rotation of units and g
personnel and the arrival and departure of individual p
as authorized above, at the points of entry enume
Article 20 below.

Article 17

(a) With effect from the date of entry into force of the
Agreement, the introduction into Viet-Nam of any r
ments in the form of all types of arms, munitions and o
material, such as combat aircraft, naval craft, pieces
nance, jet engines and jet weapons and armoured
is prohibited.

(b) It is understood, however, that war material, arms a
tions which have been destroyed, damaged, worn ou
up after the cessation of hostilities may be replace
basis of piece-for-piece of the same type and wit
characteristics. Such replacements of war material,
munitions shall not be permitted for French Unio
stationed north of the provisional military demarca
laid down in article 1 of the present Agreement, d
withdrawal period provided for in Article 2.

Naval craft may perform transport operations bet
regrouping zones.

(c) The war material, arms and munitions for replacement purposes provided for in paragraph (b) of this Article, shall be introduced into Viet-Nam only through the points of entry enumerated in Article 20 below. War material, arms and munitions to be replaced shall be shipped from Viet-Nam only through the points of entry enumerated in Article 20 below;

(d) Apart from the replacements permitted within the limits laid down in paragraph (b) of this Article, the introduction of war material, arms and munitions of all types in the form of unassembled parts for subsequent assembly is prohibited;

(e) Each party shall notify the Joint Commission and the International Commission at least two days in advance of any arrivals or departures which may take place of war material, arms and munitions of all types.

In order to justify the requests for the introduction into Viet-Nam of arms, munitions and other war material (as defined in paragraph (a) of this Article) for replacement purposes, a report concerning each incoming shipment shall be submitted to the Joint Commission and the International Commission. Such reports shall indicate the use made of the items so replaced;

(f) The International Commission, through its Inspection Teams, shall supervise and inspect the replacements permitted in the circumstances laid down in this Article, at the points of entry enumerated in Article 20 below.

Article 18

With effect from the date of entry into force of the present Agreement, the establishment of new military bases is prohibited throughout Viet-Nam territory.

Article 19

With effect from the date of entry into force of the present Agreement, no military base under the control of a foreign State may be established in the re-grouping zone of either party; the two parties shall ensure that the zones assigned to them do not adhere to any military alliance and are not used for the resumption of hostilities or to further an aggressive policy.

Article 20

The points of entry into Viet-Nam for rotation personnel and replacements of material are fixed as follows:

–Zones to the north of the provisional military demarcation line
Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen
–Zone to the south of the provisional military demarcation line
Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques
Tanchau.

PRISONERS OF WAR AND CIVILIAN INTERNEES

Article 21

The liberation and repatriation of all prisoners of war and civilian internees detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of Viet-Nam, French and other nationalities captured since the beginning of hostilities in Viet-Nam during military operations or in any other circumstances of war and in any part of the territory of Viet-Nam shall be liberated within a period of thirty (30) days after the date when the cease-fire becomes effective in each theatre.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason and have been kept in detention by either party during the period of hostilities.

(c) All prisoners of war and civilian internees held by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to their country of origin, place of habitual residence or the zone of their choice.

CHAPTER V

MISCELLANEOUS

Article 22

The Commanders of the Forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 23

In cases in which the place of burial is known and the existence o graves has been established, the Commander of the Forces of either party shall, within a specific period after the entry into force of the Armistice Agreement, permit the graves service personnel of the other party to enter the part of Viet-Nam territory under their military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war. The Joint Commission shall determine the procedures and the time limit for the performance of this task. The Commanders of the Forces of the two parties shall communicate to each other all information in their possession as to the place of buria of military personnel of the other party.

Article 24

The present Agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the demilitarized zone and the territory under the military control of the other party and shall commit no act and undertake no operation against the other party and shall not engage in blockade of any kind in Viet-Nam.

For the purposes of the present Article, the word "territory" includes territorial waters and air space.

Article 25

The Commanders of the Forces of the two parties shall afford ful protection and all possible assistance and co-operation to the Join Commission and its joint groups and to the International Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present Agreement.

Article 26

The costs involved in the operations of the Joint Commission and joint groups and of the International Commission and its Inspection Teams shall be shared equally between the two parties.

Article 27

The signatories of the present Agreement and their successors in their functions shall be responsible for ensuring the observance and enforcement of the terms and provisions thereof. The Commanders of the Forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all elements and military personnel under their command.

The procedures laid down in the present Agreement shall, whenever necessary, be studied by the Commanders of the two parties and, i necessary, defined more specifically by the Joint Commission.

CHAPTER VI

JOINT COMMISSION AND INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN VIET-NAM

28. Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.
29. An International Commission shall ensure the control and superision of this execution.

The Joint Commission shall set up joint groups the number of which shall be determined by mutual agreement between the parties. The joint groups shall be composed of an equal number of officers from both parties. Their location on the demarcation line between the re-grouping zones shall be determined by the parties whilst taking into account the powers of the Joint Commission.

33. The Joint Commission shall ensure the execution of the following provisions of the Agreement on the cessation of hostilities:

(a) A simultaneous and general cease-fire in Viet-Nam for all regular and irregular armed forces of the two parties.
(b) A re-groupment of the armed forces of the two parties.
(c) Observance of the demarcation lines between the re-grouping zones and of the demilitarized sectors.

Within the limits of its competence it shall help the parties to execute the said provisions, shall ensure liaison between them for the purpose of preparing and carrying out plans for the application of these provisions, and shall endeavour to solve such disputed questions as may arise between the parties in the course of executing these provisions.

34. An International Commission shall be set up for the control and supervision of the application of the provisions of the agreement on the cessation of hostilities in Viet-Nam. It shall be composed of representatives of the following States: Canada, India and Poland.

It shall be presided over by the Representative of India.

35. The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States. The fixed teams shall be located at the following points: Laokay, Langson, Tien-Yen, Haiphong, Vinh, Dong-Hoi, Muong-Sen, Tourane, Quinhon, Nhatrang, Bangoi, Saigon, Cap St. Jacques, Tranchau. These points of location may, at a later date, be altered at the request of the Joint Commission, or of one of the parties, or of the International Commission itself, by agreement between the International Commission and the command of the party concerned. The zones of action of the mobile teams shall be the regions bordering the land and sea frontiers of Viet-Nam, the demarcation lines between the re-grouping zones and the demilitarized zones. Within the limits of these zones they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfilment of their tasks (provision of personnel, placing at their disposal documents needed for supervision, summoning witnesses necessary for holding enquiries, ensuring the security and freedom of movement

36. The International Commission shall be responsible for supervising the proper execution by the parties of the provisions of the agreement. For this purpose it shall fulfil the tasks of control, observation inspection and investigation connected with the application of the provisions of the agreement on the cessation of hostilities, and it shal in particular:

(a) Control the movement of the armed forces of the two parties effected within the framework of the regroupment plan.
(b) Supervise the demarcation lines between the regrouping areas and also the demilitarized zones.
(c) Control the operations of releasing prisoners of war and civilian internees.
(d) Supervise at ports and airfields as well as along all frontiers of Viet-Nam the execution of the provisions of the agreement on the cessation of hostilities, regulating the introduction into the country of armed forces, military personnel and of all kinds of arms, munitions and war material.

37. The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

38. The inspection teams shall submit to the International Commission the results of their supervision, their investigation and their observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams the conclusions of each member shall be submitted to the Commission.

39. If any one inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation the International Commission shall be informed; the latter shall study the reports and the conclusions of the inspection teams and shall inform the parties of the measures which should be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

40. When the Joint Commission is unable to reach an agreement on the interpretation to be given to some provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

41. The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 42. If the votes are divided the chairman's vote shall be decisive.

The International Commission may formulate recommendations oncerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Viet-Nam in order to ensure a more effective execution of that agreement. These recommendations shall be adopted unanimously.

42. When dealing with questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, namely:

(a) Refusal by the armed forces of one party to effect the movements provided for in the regroupment plan;
(b) Violation by the armed forces of one of the parties of the regrouping zones, territorial waters, or air space of the other party;

the decisions of the International Commission must be unanimous.

43. If one of the parties refuses to put into effect a recommendation of the International Commission, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.[1]

If the International Commission does not reach unanimity in the cases provided for in article 42, it shall submit a majority report and one or more minority reports to the members of the Conference.

The International Commission shall inform the members of the Conference in all cases where its activity is being hindered.

44. The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it should be able to fulfil the tasks provided for in article 36.

45. The International Commission for Supervision and Control in Viet-Nam shall act in close co-operation with the Internationa Commissions for Supervision and Control in Cambodia and Laos.

The Secretaries-General of these three Commissions shall be responsible for co-ordinating their work and for relations between them.

46. The International Commission for Supervision and Control in Viet-Nam may, after consultation with the International Commissions for Supervision and Control in Cambodia and Laos, and having regard to the development of the situation in Cambodia and Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

. . . .

47. All the provisions of the present Agreement, save the second sub-paragraph of Article 11, shall enter into force at 2400 hours (Geneva time) on 22 July 1954.

Done in Geneva at 2400 hours on the 20th of July 1954 in French

ANNEX TO THE AGREEMENT ON THE CESSATION HOSTILITIES IN VIET-NAM

I. *Delineation of the provisional military demarcation line anc demilitarized zone* (Article 1 of the Agreement; reference r Indo-China 1/100,000 [1])

(a) The provisional military demarcation line is fixed as foll reading from east to west:

the mouth of the Song Ben Hat (Cua Tung River) anc course of that river (known as the Rao Thanh in the m tains) to the village of Bo Ho Su, then the parallel of Bo H to the Laos-Viet-Nam frontier.

(b) The dimilitarized zone shall be delimited by Trung Military Commission in accordance with the provisior article 1 of the Agreement on the cessation of hostiliti Viet-Nam.

II. *General delineation of the provisional assembly areas* (Articl of the Agreement; reference maps: Indo-China 1/400,000) [1]

(a) NORTH VIET-NAM

Delineation of the boundary of the provisional assembly ar the French Union forces

1. The perimeter of Hanoi is delimited by the arc of a c with a radius of 15 kilometres, having as its centre the bank abutment of Doumer Bridge and running westw from the Red River to the Rapids Canal in the north-ea In this particular case no forces of the French Union sha stationed less than 2 kilometres from this perimeter, or inside thereof.

2. The perimeter of Haiphong shall be delimited by Song-Van-Uc as far as Kim Thanh and a line running the Song-Van-Uc three kilometres north-east of Kim T to cut Road No. 18 two kilometres east of Mao-Khé. Th a line running three kilometres north of Road 18 to Cho- and a straight line from Cho-Troi to the Mong-Duong f

3. *A corridor contained between:*

In the south, the Red River from Thanh-Tri to Bang- thence a line joining the latter point to Do-My (sc west of Kesat), Gia-Loc and Tien Kieu;

NOTE: Throughout the period of evacuation of the p
of Hanoi, the river forces of the French Union sha
complete freedom of movement on the Song-Van-U
the forces of the People's Army of Viet-Nam sha
draw three kilometres south of the south bank
Song-Van-Uc.

*Boundary between the perimeter of Hanoi and the peri
Haiduong*

A straight line running from the Rapids Cana
kilometres west of Chi-ne and ending at Do-My (eig
metres south-west of Kesat).

(b) CENTRAL VIET-NAM

*Delineation of the boundary of the provisional assembly
the forces of the Viet-Nam People's Army south of the
Nuages parallel*

The perimeter of the Central Viet-Nam area shall c
the administrative boundaries of the provinces of Qua
and Binh-Dinh as they were defined before the hostil

(c) SOUTH VIET-NAM

Three provisional assembly areas shall be provided
forces of the People's Army of Viet-Nam.
The boundaries of these areas are as follows:

1. *Xuyen-Moc, Ham-Tan Area*

Western boundary: The course of the Song-Ray e
northwards as far as Road No. 1 to a point there
kilometres east of the intersection of Road No. 1 a
No. 3.

Northern boundary: Road No. 1 from the above-m
intersection to the intersection with Route Co
No. 9 situated 27 kilometres west-south-west of P
and from that intersection a straight line to Ki
on the coast.

2. *Plaine des Joncs Area*

Northern boundary: The Viet-Nam—Cambodia fr

Western boundary: A straight line from Tong-
Binh-Thanh.

3. *Point Camau Area*

Northern boundary: The Song-Cai-lon from its mouth to its junction with the Rach-Nuoc-Trong, thence the Rach-Nuoc-Trong to the bend five kilometres north-east of Ap-Xeo-La. Thereafter a line to the Ngan-Dua Canal and following that Canal as far as Vinh-Hung. Finally, from Vinh-Hung a north-south line to the sea.

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7. AGREEMENT ON THE CESSATION OF HOSTILITIES IN CAMBODIA, JULY 20, 1954 [1]

CHAPTER I

PRINCIPLES AND CONDITIONS GOVERNING EXECUTION OF THE CEASE-FIRE

Article 1.

As from twenty-third July 1954 at 0800 hours (Pekin mean time) complete cessation of all hostilities throughout Cambodia shall be ordered and enforced by the Commanders of the Armed Forces of the wo parties for all troops and personnel of the land, naval and air forces under their control.

Article 2.

In conformity with the principle of a simultaneous cease-fire throughout Indo-China, there shall be a simultaneous cessation of hostilities throughout Cambodia, in all the combat areas and for all the forces of the two parties.

To obviate any mistake or misunderstanding and to ensure that both the ending of hostilities and all other operations arising from cessation of hostilities are in fact simultaneous,

(a) due allowance being made for the time actually required for transmission of the cease-fire order down to the lowest échelons of the combatant forces of both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Cambodia shall become effective at 8 hours (local time) on 7 August 1954. It is agreed that Pekin mean time shall be taken as local time.

(b) Each side shall comply strictly with the time-table jointly agreed upon between the parties for the execution of all operations connected with the cessation of hostilities.

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[1] Geneva Conference doc. IC/52; reprinted in *Report on Indochina: Report of Senator Mike Mansfield on a Study Mission to Vietnam, Cambodia, Laos*, Oct. 15 1954 (Senate Foreign Relations Committee print, 83d Cong., 2d sess.), pp. 36–41 For entry into force, see article 33.

All operations and movements connected with the execution of the cessation of hostilities must be carried out in a safe and orderly fashion.

(a) Within a number of days to be determined by the Commanders of both sides, after the cease-fire has been achieved, each party shall be responsible for removing and neutralizing mines, booby traps, explosives and any other dangerous devices placed by it Should it be impossible to complete removal and neutralization before departure, the party concerned will mark the spot by placing visible signs. Sites thus cleared of mines and any other obstacles to the free movement of the personnel of the International Commission and the Joint Commission shall be notified to the latter by the local military Commanders.

(b) Any incidents that may arise between the forces of the two sides and may result from mistakes or misunderstandings shall be settled on the spot so as to restrict their scope.

(c) During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the Agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

CHAPTER II

PROCEDURE FOR THE WITHDRAWAL OF THE FOREIGN ARMED FORCES AND FOREIGN MILITARY PERSONNEL FROM THE TERRITORY OF CAMBODIA

Article 4.

1. The withdrawal outside the territory of Cambodia shall apply to

    (a) the armed forces and military combatant personnel of the French Union:

    (b) the combatant formations of all types which have entered the territory of Cambodia from other countries or regions of the peninsula:

    (c) all the foreign elements (or Cambodians not natives of Cambodia) in the military formations of any kind or holding supervisory functions in all political or military, administrative economic or social bodies, having worked in liaison with the Viet-Nam military units.

2. The withdrawals of the forces and elements referred to in the foregoing paragraphs and their military supplies and materials must be completed within 90 days reckoning from the entry into force of the present Agreement.

3. The two parties shall guarantee that the withdrawals of all the forces will be effected in accordance with the purposes of the Agreement, and that they will not permit any hostile

action or take any action likely to create difficulties for such withdrawals. They shall assist one another as far as possible

4. While the withdrawals are proceeding, the two parties shall not permit any destruction or sabotage of public property o any attack on the life or property of the civilian population They shall not permit any interference with the local civil administration.
5. The Joint Commission and the International Supervisory Commission shall supervise the execution of measures to ensure the safety of the forces during withdrawal.
6. The Joint Commission in Cambodia shall determine the detailed procedures for the withdrawals of the forces on the basis of the above-mentioned principles.

CHAPTER III

Other Questions

A. *The Khmer armed forces, natives of Cambodia*

Article 5. The two parties shall undertake that within thirty days after the cease-fire order has been proclaimed, the Khmer Resistance Forces shall be demobilized on the spot; simultaneously, the troops f the Royal Khmer Army shall abstain from taking any hostile action against the Khmer Resistance Forces.

Article 6. The situation of these nationals shall be decided in the light of the Declaration made by the Delegation of Cambodia at the Geneva Conference, reading as follows:

"The Royal Government of Cambodia,

In the desire to ensure harmony and agreement among the peoples of the Kingdom,

Declares itself resolved to take the necessary measures to integrate all citizens, without discrimination, into the national community and to guarantee them the enjoyment of the rights and freedoms fo which the Constitution of the Kingdom provides;

Affirms that all Cambodian citizens may freely participate as electors or candidates in general elections by secret ballot."

No reprisals shall be taken against the said nationals or their families, each national being entitled to the enjoyment, without any discrimination as compared with other nationals, of all constitu-ional guarantees concerning the protection of person and property and democratic freedoms.

Applicants therefor may be accepted for service in the Regula Army or local police formations if they satisfy the conditions required or current recruitment of the Army and Police Corps.

The same procedure shall apply to those persons who have returned to civilian life and who may apply for civilian employment on the same terms as other nationals.

B. *Ban on the Introduction of Fresh Troops, Military Personnel, Armaments and Munitions. Military Bases.*

Article 7.

In accordance with the Declaration made by the Delegation of Cambodia at 2400 hours on 20 July 1954 at the Geneva Conference of Foreign Ministers:

> "The Royal Government of Cambodia will not join in any agreement with other States, if this agreement carries for Cambodia the obligation to enter into a military alliance not in conformity with the principles of the Charter of the United Nations or with the principles of the agreements on the cessation of hostilities, or, as long as its security is not threatened, the obligation to establish bases on Cambodian territory for the military forces of foreign powers.
>
> "During the period which will elapse between the date of the cessation of hostilities in Viet-Nam and that of the final settlement of political problems in this country, the Royal Government of Cambodia will not solicit foreign aid in war material, personnel or instructors except for the purpose of the effective defence of the territory."

C. *Civilian Internees and Prisoners of War.–Burial.*

Article 8.

The liberation and repatriation of all civilian internees and prisoners of war detained by each of the two parties at the coming into force of the present Agreement shall be carried out under the following conditions:

(a) All prisoners of war and civilian internees of whatever nationality, captured since the beginning of hostilities in Cambodia during military operations or in any other circumstances of war and in any part of the territory of Cambodia shall be liberated after the entry into force of the present Armistice Agreement.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed struggle between the two parties, have been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be personnel of the other party, including the bodies of prisoners of wa or personnel deceased and buried on Cambodian territory.

The Joint Commission shall fix the procedures by which this tas is to be carried out and the time limit within which it must b completed.

CHAPTER IV

JOINT COMMISSION AND INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN CAMBODIA

Article 10.

Responsibility for the execution of the Agreement on the cessatio of hostilities shall rest with the parties.

Article 11.

An International Commission shall be responsible for control an supervision of the application of the provisions of the Agreemen on the cessation of hostilities in Cambodia. It shall be compose of representatives of the following States: Canada, India and Poland It shall be presided over by the representative of India. Its headquarters shall be at Phnom-Penh.

Article 12.

The International Commission shall set up fixed and mobil inspection teams, composed of an equal number of officers appointe by each of the above-mentioned States.

The fixed teams shall be located at the following points: Phnom-Penh, Kompong-Cham, Kratié, Svay-Rieng, Kampot. These point of location may be altered at a later date by agreement between th Government of Cambodia and the International Commission.

The zones of action of the mobile teams shall be the regions bordering on the land and sea frontiers of Cambodia. The mobile team shall have the right to move freely within the limits of their zone of action, and they shall receive from the local civil and militar authorities all facilities they may require for the fulfilment of thei tasks (provision of personnel, access to documents needed for supervision, summoning of witnesses needed for enquiries, security an freedom of movement of the inspection teams, etc.). They shal have at their disposal such modern means of transport, observatio and communication as they may require.

Outside the zones of action defined above, the mobile teams may with the agreement of the Cambodian Commander, move about a required by the tasks assigned to them under the present Agreement

Article 13.

The International Commission shall be responsible for supervisin the execution by the parties of the provisions of the present Agree-

nent. For this purpose it shall fulfil the functions of control, observa-
ion, inspection and investigation connected with the implementatio
of the provisions of the Agreement on the cessation of hostilities, an
shall in particular:

(a) control the withdrawal of foreign forces in accordance with th provisions of the Agreement on the cessation of hostilities an see that frontiers are respected;
(b) control the release of prisoners of war and civilian internees;
(c) supervise, at ports and airfields and along all the frontiers o Cambodia, the application of the Cambodian declaration concerning the introduction into Cambodia of military personne and war materials on grounds of foreign assistance.

Article 14.

A Joint Commission shall be set up to facilitate the implementatio of the clauses relating to the withdrawal of foreign forces.

The Joint Commission may form joint groups the number of whic shall be decided by mutual agreement between the parties.

The Joint Commission shall facilitate the implementation of th clauses of the Agreement on the cessation of hostilities relating to th simultaneous and general cease-fire in Cambodia for all regular an irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses it shall ensure liaison between them for the purpose of preparing an carrying out plans for the implementation of the said clauses; it shal endeavour to settle any disputes between the parties arising out of th implementation of these clauses. The Joint Commission may sen joint groups to follow the forces in their movements; such groups shal be disbanded once the withdrawal plans have been carried out.

Article 15.

The Joint Commission shall be composed of an equal number o representatives of the Commands of the parties concerned.

Article 16.

The International Commission shall, through the medium of th inspection teams mentioned above and as soon as possible, either o its own initiative or at the request of the Joint Commission or of one o the parties, undertake the necessary investigations both documentar and on the ground.

Article 17.

Article 18.

If an inspection team is unable to settle an incident or considers that there is a violation or threat of a serious violation, the International Commission shall be informed; the Commission shall examine the reports and findings of the inspection teams and shall inform the parties of the measures to be taken for the settlement of the incident, ending of the violation or removal of the threat of violation.

Article 19.

When the Joint Commission is unable to reach agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 20.

The recommendations of the International Commission shall be adopted by a majority vote, subject to the provisions of article 21. If the votes are equally divided, the Chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the Agreement on the cessation of hostilities in Cambodia, in order to ensure more effective execution of the said Agreement. These recommendations shall be adopted unanimously.

Article 21.

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular,

(a) refusal by foreign armed forces to effect the movements provided for in the withdrawal plan,
(b) violation or threat of violation of the country's integrity by foreign armed forces,

the decisions of the International Commission must be unanimous.

Article 22.

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.[1]

If the International Commission does not reach unanimity in the cases provided for in article 21, it shall transmit a majority report and one or more minority reports to members of the Conference.

The International Commission shall inform the members of the Conference of all cases in which its work is being hindered.

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[1] See *infra*, docs. 9 and 10.

Article 23.

The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it may be able to perform the tasks prescribed in article 13.

Article 24.

The International Commission for Supervision and Control in Cambodia shall act in close cooperation with the International Commissions in Viet-Nam and Laos.

The Secretaries-General of these three Commissions shall be responsible for coordinating their work and for relations between them.

Article 25.

The International Commission for Supervision and Control in Cambodia may, after consultation with the International Commissions in Viet-Nam and in Laos, and having regard to the development of the situation in Viet-Nam and in Laos, progressively reduce its activities. Such a decision must be adopted unanimously.

CHAPTER V

IMPLEMENTATION

Article 26.

The Commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 27.

The present Agreement on the cessation of hostilities shall apply to all the armed forces of either party.

Article 28.

The Commanders of the forces of the two parties shall afford full protection and all possible assistance and co-operation to the Joint Commission and to the International Commission and its inspection teams in the performance of their functions.

Article 29.

The Joint Commission, composed of an equal number of representatives of the Commands of the two parties, shall assist the parties in the implementation of all the clauses of the Agreement on the cessation of hostilities, ensure liaison between the two parties, draw up plans for the implementation of the Agreement, and endeavour to settle any dispute arising out of the implementation of the said clauses and plans.

The costs involved in the operation of the Joint Commission shall be shared equally between the two parties.

Article 31.

The signatories of the present Agreement on the cessation of hostilities and their successors in their functions shall be responsible fo the observance and enforcement of the terms and provisions thereof The Commanders of the forces of the two parties shall, within thei respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all military personnel under their command.

Article 32.

The procedures laid down in the present Agreement shall, wheneve necessary be examined by the Commands of the two parties and, i necessary, defined more specifically by the Joint Commission.

rticle 33.

All the provisions of the present Agreement shall enter into force at 00 hours (Geneva time) on 23 July 1954.
Done at Geneva on 20 July 1954.

. . . .

8. AGREEMENT ON THE CESSATION OF HOSTILITIES I LAOS, JULY 20, 1954 [1]

CHAPTER I

CEASE-FIRE AND EVACUATION OF FOREIGN ARMED FORCES AN FOREIGN MILITARY PERSONNEL

Article 1.

The Commanders of the armed forces of the parties in Laos shall order and enforce the complete cessation of all hostilities in Laos by all armed forces under their control, including all units and personne of the ground, naval and air forces.

Article 2.

In accordance with the principle of a simultaneous cease-fire throughout Indo-China the cessation of hostilities shall be simultaneou of the two parties.

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[1] Geneva Conference doc. IC/51/Rev. 1; reprinted in *Report on Indochina Report of Senator Mike Mansfield on a Study Mission to Vietnam, Cambodia, Laos* Oct. 15, 1954 (Senate Foreign Relations Committee print, 83d Cong., 2d sess.), pp. 30–35. For entry into force, see articles 2 (a) and 40.

In order to prevent any mistake or misunderstanding and to ensure that both the cessation of hostilities and the disengagement and movements of the opposing forces are in fact simultaneous,

(a) Taking into account the time effectively required to transmit the cease-fire order down to the lowest échelons of the combatant forces on both sides, the two parties are agreed that the complete and simultaneous cease-fire throughout the territory of Laos shall become effective at 8 hours local time on 6 August 1954. It is agreed that Pekin mean time shall be taken as local time.

(b) The Joint Commission for Laos shall draw up a schedule for the other operations resulting from the cessation of hostilities.

NOTE: The cease-fire shall become effective 15 days after the entry into force of the present Agreement.

Article 3

All operations and movements entailed by the cessation of hostilities and re-grouping must proceed in a safe and orderly fashion:

(a) Within a number of days to be determined on the spot by the Joint Commission in Laos each party shall be responsible for removing and neutralizing mines, booby traps, explosives and any other dangerous substance placed by it. In the event of its being impossible to complete the work of removal and neutralization in time, the party concerned shall mark the spot by placing visible signs there.

(b) As regards the security of troops on the move following the lines of communication in accordance with the schedule previously drawn up by the Joint Armistice Commission in Laos, and the safety of the assembly areas, detailed measures shall be adopted in each case by the Joint Armistice Commission in Laos. In particular, while the forces of one party are withdrawing by a line of communication passing through the territory of the other party (road or waterways) the forces of the latter party shall provisionally withdraw two kilometres on either side of such line of communication, but in such a manner as to avoid interfering with the movement of the civil population.

Article 4

The withdrawals and transfers of military forces, supplies and equipment shall be effected in accordance with the following principles:

(a) The withdrawals and transfers of the military forces, supplies and equipment of the two parties shall be completed within a period of 120 days from the day on which the Armistice Agreement enters into force.

The two parties undertake to communicate their transfer plans to each other, for information, within 25 days of the entry into force of the present Agreement.

(b) The withdrawals of the Viet-Namese People's Volunteers from Laos to Viet-Nam shall be effected by provinces. The position of those volunteers who were settled in Laos before the hostilities shall form the subject of a special convention.

(c) The routes for the withdrawal of the forces of the French Union and Viet-Namese People's Volunteers in Laos from Laotian territory shall be fixed on the spot by the Joint Commission.

(d) The two parties shall guarantee that the withdrawals and transfers of all forces will be effected in accordance with the purposes of this Agreement, and that they will not permit any hostile action or take action of any kind whatever which might hinder such withdrawals or transfers. The parties shall assist each other as far as possible.

(e) While the withdrawals and transfers of the forces are proceeding, the two parties shall not permit any destruction or sabotage of any public property or any attack on the life or property of the local civilian population. They shall not permit any interference with the local civil administration.

(f) The Joint Commission and the International Commission shall supervise the implementation of measures to ensure the safety of the forces during withdrawal and transfer.

(g) The Joint Commission in Laos shall determine the detailed procedures for the withdrawals and transfers of the forces in accordance with the above-mentioned principles.

Article 5

During the days immediately preceding the cease-fire each party undertakes not to engage in any large-scale operation between the time when the Agreement on the cessation of hostilities is signed at Geneva and the time when the cease-fire comes into effect.

CHAPTER II

PROHIBITION OF THE INTRODUCTION OF FRESH TROOPS, MILITARY PERSONNEL, ARMAMENTS AND MUNITIONS

Article 6

personnel shall not exceed one thousand five hundred (1,500)
and non-commissioned officers.

Article 7

Upon the entry into force of the present Agreement, the est
ment of new military bases is prohibited throughout the te
of Laos.

Article 8

The High Command of the French forces shall maintain
territory of Laos the personnel required for the maintenance
French military establishments, the first at Seno and the sec
the Mekong valley, either in the province of Vientiane or down
from Vientiane.

The effectives maintained in these military establishments sh
exceed a total of three thousand five hundred (3,500) men.

Article 9

Upon the entry into force of the present Agreement and in
ance with the declaration made at the Geneva Conference
Royal Government of Laos on 20 July 1954,[1] the introductio
Laos of armaments, munitions and military equipment of al
is prohibited, with the exception of a specified quantity of arm
in categories specified as necessary for the defence of Laos.

Article 10

The new armaments and military personnel permitted to
Laos in accordance with the terms of Article 9 above shall ente
at the following points only: Luang-Prabang, Xieng-Kh
Vientiane, Seno, Paksé, Savannakhet and Tchépone.

CHAPTER III

DISENGAGEMENT OF THE FORCES—ASSEMBLY AREAS—CONCENTRATION AREAS

Article 11

The disengagement of the armed forces of both sides, in
concentration of the armed forces, movements to rejoin the
sional assembly areas allotted to one party and provisional with
movements by the other party, shall be completed within a

- of the five (5) provisional assembly areas for the reception of the French forces in Laos
- of the twelve (12) provisional assembly areas, one to each province for the reception of the fighting units of "Pathet Lao".
- The forces of the Laotian National Army shall remain *in situ* during the entire duration of the operations of disengagement and transfer of foreign forces and fighting units of "Pathet Lao".

Article 13

The foreign Forces shall be transferred outside Laotian territory as ollows:

(1) *French Forces:*
The French forces will be moved out of Laos by road (along routes aid down by the Joint Commission in Laos) and also by air and inland waterway;
(2) *Vietnamese People's Volunteer forces:*
These forces will be moved out of Laos by land, along routes and in accordance with a schedule to be determined by the Joint Commission in Laos in accordance with principle of simultaneous withdrawal of foreign forces.

Article 14

Pending a political settlement, the fighting units of "Pathet Lao" concentrated in the provisional assembly areas, shall move into the Provinces of Phongsaly and Sam-Neua except for any military personnel who wish to be demobilised where they are. They will be free to move between these two Provinces in a corridor along the frontier between Laos and Viet-Nam bounded on the south by the line SOP KIN,NA MI,SOP SANG-MUONG SON.

Concentration shall be completed within one-hundred-and-twenty (120) days from the date of entry into force of the present Agreement.

Article 15

Each party undertakes to refrain from any reprisals or discrimination against persons or organizations for their activities during the hostilities and also undertakes to guarantee their democratic freedoms.

CHAPTER IV

PRISONERS OF WAR AND CIVILIAN INTERNEES

Article 16

war and in any part of the territory of Laos shall be liberated within a period of thirty (30) days after the date when the cease-fire comes into effect.

(b) The term "civilian internees" is understood to mean all persons who, having in any way contributed to the political and armed strife between the two parties, have been arrested for that reason or kept in detention by either party during the period of hostilities.

(c) All foreign prisoners of war captured by either party shall be surrendered to the appropriate authorities of the other party, who shall give them all possible assistance in proceeding to the destination of their choice.

CHAPTER V

Miscellaneous

Article 17

The Commanders of the forces of the two parties shall ensure that persons under their respective commands who violate any of the provisions of the present Agreement are suitably punished.

Article 18

In cases in which the place of burial is known and the existence of graves has been established, the Commander of the forces of either party shall, within a specified period after the entry into force of the present Agreement, permit the graves service of the other party to enter that part of Laotian territory under his military control for the purpose of finding and removing the bodies of deceased military personnel of that party, including the bodies of deceased prisoners of war.

The Joint Commission shall fix the procedures by which this task is carried out and the time limits within which it must be completed. The Commanders of the forces of each party shall communicate to the other all information in his possession as to the place of burial of military personnel of the other party.

Article 19

The present Agreement shall apply to all the armed forces of either party. The armed forces of each party shall respect the territory under the military control of the other party, and engage in no hostile act against the other party.

For the purposes of the present article the word "territory" includes territorial waters and air space.

Article 20

The Commanders of the forces of the two parties shall afford full protection and all possible assistance and co-operation to the

Commission and its inspection teams in the performance of the functions and tasks assigned to them by the present Agreement.

Article 21

The costs involved in the operation of the Joint Commission and its joint groups and of the International Commission and its inspection teams shall be shared equally between the two parties.

Article 22

The signatories of the present Agreement and their successors in their functions shall be responsible for the observance and enforcement of the terms and provisions thereof. The Commanders of the forces of the two parties shall, within their respective commands, take all steps and make all arrangements necessary to ensure full compliance with all the provisions of the present Agreement by all military personnel under their command.

Article 23

The procedures laid down in the present Agreement shall, whenever necessary, be examined by the Commanders of the two parties and, if necessary, defined more specifically by the Joint Commission.

CHAPTER VI

JOINT COMMISSION AND INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN LAOS

Article 24

Responsibility for the execution of the agreement on the cessation of hostilities shall rest with the parties.

Article 25

An International Commission shall be entrusted with control and supervision over the application of the provisions of the agreement on the cessation of hostilities in Laos. It shall be composed of representatives of the following States: Canada, India and Poland.

It shall be presided over by the Representative of India. Its headquarters shall be at Vientiane.

Article 26

The International Commission shall set up fixed and mobile inspection teams, composed of an equal number of officers appointed by each of the above-mentioned States.

The fixed teams shall be located at the following points: Paksé Seno, Tchépone, Vientiane, Xieng-Khonang, Phongsaly, Sophao (province of Samneua). These points of location may, at a later date

International Commission.

The zones of action of the mobile teams shall be the regions bordering the land frontiers of Laos. Within the limits of their zones of action they shall have the right to move freely and shall receive from the local civil and military authorities all facilities they may require for the fulfilment of their tasks (provision of personnel, access to documents needed for supervision, summoning of witnesses needed for holding enquiries, the security and freedom of movement of the inspection teams etc. . . .). They shall have at their disposal such modern means of transport, observation and communication as they may require.

Outside the zones of action defined above, the mobile teams may, with the agreement of the Command of the party concerned, move about as required by the tasks assigned to them by the present agreement.

Article 27

The International Commission shall be responsible for supervising the execution by the parties of the provisions of the present agreement. For this purpose it shall fulfil the functions of control, observation, inspection and investigation connected with the implementation of the provisions of the agreement on the cessation of hostilities, and shall in particular:

(a) Control the withdrawal of foreign forces in accordance with the provisions of the agreement on the cessation of hostilities and see that frontiers are respected.
(b) Control the release of prisoners of war and civilian internees.
(c) Supervise, at ports and airfields and along all the frontiers of Laos, the implementation of the provisions regulating the introduction into Laos of military personnel and war materials.
(d) Supervise the implementation of the clauses of the agreement on the cessation of hostilities relating to rotation of personnel and to supplies for French Union security forces maintained in Laos.

Article 28

A Joint Commission shall be set up to facilitate the implementation of the clauses relating to the withdrawal of foreign forces.

The Joint Commission shall form joint groups, the number of which shall be decided by mutual agreement between the parties.

The Joint Commission shall facilitate the implementation of the clauses of the agreement on the cessation of hostilities relating to the simultaneous and general cease-fire in Laos for all regular and irregular armed forces of the two parties.

It shall assist the parties in the implementation of the said clauses; it shall ensure liaison between them for the purpose of preparing and carrying out plans for the implementation of the said clauses; it shall endeavour to settle any disputes between the parties arising out of the forces in their movements and shall be disbanded once the withdrawa plans have been carried out.

Article 29

The Joint Commission and the Joint Groups shall be composed o an equal number of representatives of the commands of the parties concerned.

Article 30

The International Commission shall, through the medium of the inspection teams mentioned above, and as soon as possible either on its own initiative, or at the request of the Joint Commission, or of one of the parties, undertake the necessary investigations both documentary and on the ground.

Article 31

The inspection teams shall submit to the International Commission the results of their supervision, investigation and observations, furthermore they shall draw up such special reports as they may consider necessary or as may be requested from them by the Commission. In the case of a disagreement within the teams, the findings of each member shall be transmitted to the Commission.

Article 32

If an inspection team is unable to settle an incident or considers that there is a violation or a threat of a serious violation the International Commission shall be informed; the latter shall examine the reports and findings of the inspection teams and shall inform the parties of the measures which should be taken for the settlement o the incident, ending of the violation or removal of the threat o violation.

Article 33

When the Joint Commission is unable to reach an agreement on the interpretation of a provision or on the appraisal of a fact, the International Commission shall be informed of the disputed question. Its recommendations shall be sent directly to the parties and shall be notified to the Joint Commission.

Article 34

The recommendations of the International Commission shall be adopted by majority vote, subject to the provisions contained in article 35. If the votes are equally divided the chairman's vote shall be decisive.

The International Commission may make recommendations concerning amendments and additions which should be made to the provisions of the agreement on the cessation of hostilities in Laos, in order to ensure more effective execution of the said agreement. These recommendations shall be adopted unanimously.

Article 35

On questions concerning violations, or threats of violations, which might lead to a resumption of hostilities, and in particular:

(a) Refusal by foreign armed forces to effect the movements provided for in the withdrawal plan;

(b) Violation or threat of violation of the country's integrity by foreign armed forces,

the decisions of the International Commission must be unanimous.

Article 36

If one of the parties refuses to put a recommendation of the International Commission into effect, the parties concerned or the Commission itself shall inform the members of the Geneva Conference.[1] If the International Commission does not reach unanimity in the cases provided for in article 35, it shall transmit a majority report and one or more minority reports to the members of the Conference. The International Commission shall inform the members of the Conference of all cases in which its work is being hindered.

Article 37

The International Commission shall be set up at the time of the cessation of hostilities in Indo-China in order that it may be able to fulfil the tasks prescribed in article 27.

Article 38

The International Commission for Supervision and Control in Laos shall act in close co-operation with the International Commissions in Viet-Nam and Cambodia.

The Secretaries-General of these three Commissions shall be responsible for co-ordinating their work and for relations between them.

Article 39

The International Commission for Supervision and Control in Laos may, after consultation with the International Commissions in Cambodia and Viet-Nam having regard to the development of the situation in Cambodia and Viet-Nam, progressively reduce its activities. Such a decision must be reduced unanimously [*sic*]. These recommendations shall be adopted unanimously.

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[1] See *infra*, docs. 9 and 10.

CHAPTER VII

Article 40

All the provisions of the present Agreement, save paragraph (a) of Article 2, shall enter into force at 24 hours (Geneva time) on 22 July 1954.

Article 41

Done in Geneva (Switzerland) on 20 July 1954, at 24 hours, in the French language.

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9. FINAL DECLARATION OF THE GENEVA CONFERENCE ON THE PROBLEM OF RESTORING PEACE IN INDO-CHINA JULY 21, 1954 [1]

FINAL DECLARATION, dated the 21st July, 1954, of the Geneva Conference on the problem of restoring peace in Indo-China, in which the representatives of Cambodia, the Democratic Republic of Viet-Nam, France, Laos, the People's Republic of China, the State of Viet-Nam, the Union of Soviet Socialist Republics, the United Kingdom, and the United States of America took part.

1. The Conference takes note of the agreements ending hostilities in Cambodia, Laos and Viet-Nam and organizing international control and the supervision of the execution of the provisions of these greements.

2. The Conference expresses satisfaction at the ending of hostilities in Cambodia, Laos and Viet-Nam; the Conference expresses its coniction that the execution of the provisions set out in the present declaration and in the agreements on the cessation of hostilities will permit Cambodia, Laos and Viet-Nam henceforth to play their part in full independence and sovereignty, in the peaceful community of nations.

3. The Conference takes note of the declarations made by the Governments of Cambodia [2] and of Laos [3] of their intention to adopt measres permitting all citizens to take their place in the national community, in particular by participating in the next general elections, which in conformity with the constitution of each of these countries, shall take place in the course of the year 1955, by secret ballot and in conditions of respect for fundamental freedoms.

4. The Conference takes note of the clauses in the agreement on the essation of hostilities in Viet-Nam prohibiting the introduction into Viet-Nam of foreign troops and military personnel as well as of all

their resolution not to request foreign aid, whether in war material, in personnel or in instructors except for the purpose of the effective defence of their territory and, in the case of Laos, to the extent defined by the agreements on the cessation of hostilities in Laos.

5. The Conference takes note of the clauses in the agreement on the cessation of hostilities in Viet-Nam to the effect that no military base under the control of a foreign State may be established in the regrouping zones of the two parties, the latter having the obligation to see that the zones allotted to them shall not constitute part of any military alliance and shall not be utilized for the resumption of hostilities or in the service of an aggressive policy. The Conference also takes note of the declarations of the Governments of Cambodia [3] and Laos [4] to the effect that they will not join in any agreement with other States if this agreement includes the obligation to participate in a military alliance not in conformity with the principles of the Charter of the United Nations or, in the case of Laos, with the principles of the agreement on the cessation of hostilities in Laos or, so long as their security is not threatened, the obligation to establish bases on Cambodian or Laotian territory for the military forces of foreign Powers.

6. The Conference recognizes that the essential purpose of the agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Viet-Nam.

7. The Conference declares that, so far as Viet-Nam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Viet-Namese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the Member States of the International Supervisory Commission,[5] referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 onwards.

8. The provisions of the agreements on the cessation of hostilities intended to ensure the protection of individuals and of property must

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[1] Doc. IC/46/Rev. 2; *ibid.*, p. 28.

[2] Doc. IC/47/Rev. 1; *ibid.*, pp. 28–29.

[3] Doc. IC/46/Rev. 2; *ibid.*, p. 28.

[4] Doc. IC/47/Rev. 1; *ibid.*, pp. 28–29.

[5] The member states are Canada, India, and Poland.

Viet-Nam to decide freely in which zone he wishes to live.

9. The competent representative authorities of the Northern and Southern zones of Viet-Nam, as well as the authorities of Laos and Cambodia, must not permit any individual or collective reprisals against persons who have collaborated in any way with one of the parties during the war, or against members of such persons' families.

10. The Conference takes note of the declaration of the Government of the French Republic [1] to the effect that it is ready to withdraw its roops from the territory of Cambodia, Laos and Viet-Nam, at the request of the governments concerned and within periods which shall be fixed by agreement between the parties except in the cases where, by agreement between the two parties, a certain number of French troops shall remain at specified points and for a specified time.

11. The Conference takes note of the declaration of the French Government [2] to the effect that for the settlement of all the problems onnected with the re-establishment and consolidation of peace in Cambodia, Laos and Viet-Nam, the French Government will proceed from the principle of respect for the independence and sovereignty, unity and territorial integrity of Cambodia, Laos and Viet-Nam.

12. In their relations with Cambodia, Laos and Viet-Nam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, the unity and the territorial integrity of the bovementioned states, and to refrain from any interference in their internal affairs.

13. The members of the Conference agree to consult one another on any question which may be referred to them by the International Supervisory Commission, in order to study such measures as may prove necessary to ensure that the agreements on the cessation of hostilities in Cambodia, Laos and Viet-Nam are respected.

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10. STATEMENT BY THE UNDER SECRETARY OF STATE [3] AT THE CONCLUDING PLENARY SESSION OF THE GENEVA CONFERENCE, JULY 21, 1954 [4]

As I stated on July 18, my Government is not prepared to join in a declaration by the Conference such as is submitted. However, the United States makes this unilateral declaration of its position in these atters:

Declaration

The Government of the United States being resolved to devote its efforts to the strengthening of peace in accordance with the principles and purposes of the United Nations takes note of the agreements concluded at Geneva on July 20 and 21, 1954 between (a) the Franco-Laotian Command and the Command of the Peoples Army of Viet-Nam; (b) the Royal Khmer Army Command and the Command of the Peoples Army of Viet-Nam; (c) Franco-Vietnamese Command and the Command of the Peoples Army of Viet-Nam and of paragraphs 1 to 12 inclusive of the declaration presented to the Geneva Conference on July 21, 1954 declares with regard to the aforesaid agreements and paragraphs that (i) it will refrain from the threat or the use of force to disturb them, in accordance with Article 2 (4) of the Charter of the United Nations dealing with the obligation of members to refrain in their international relations from the threat or use of force; and (ii) it would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security.

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[1] Doc. IC/48/Rev. 1; *Report on Indochina*, p. 29.

[2] Doc. IC/49/Rev. 1; *ibid.*, p. 29.

[3] Walter Bedell Smith.

[4] Department of State *Bulletin*, Aug. 2, 1954, pp. 162–163.

In connection with the statement in the declaration concerning free elections in Viet-Nam my Government wishes to make clear its position which it has expressed in a declaration made in Washington on June 29, 1954,[1] as follows:

> In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to insure that they are conducted fairly.

With respect to the statement made by the representative of the State of Viet-Nam,[2] the United States reiterates its traditional position that peoples are entitled to determine their own future and that it will not join in an arrangement which would hinder this. Nothing in its declaration just made is intended to or does indicate any departure from this traditional position.

We share the hope that the agreements will permit Cambodia, Laos and Viet-Nam to play their part, in full independence and sovereignty in the peaceful community of nations, and will enable the peoples of that area to determine their own future.

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[1] *Infra*, p. 1707.

[2] Statement made July 21, 1954, at the closing session of the Geneva Conference for an English-language text, see *Documents on American Foreign Relations, 195* (New York, 1955), pp. 315–316.

Part V

BASIC SECURITY TREATIES OF THE UNITED STATES

The Inter-American Treaty of Reciprocal Assistance (Rio Pact)

1. TEXT OF TREATY, SEPTEMBER 2, 1947 [1]

In the name of their Peoples, the Governments represented at the Inter-American Conference for the Maintenance of Continental Peace and Security,[2] desirous of consolidating and strengthening their relations of friendship and good neighborliness, and

Considering:

That Resolution VIII of the Inter-American Conference on Problems of War and Peace,[3] which met in Mexico City, recommended the conclusion of a treaty to prevent and repel threats and acts of aggression against any of the countries of America;

That the High Contracting Parties reiterate their will to remain united in an inter-American system consistent with the purposes and principles of the United Nations, and reaffirm the existence of the agreement which they have concluded concerning those matters relating to the maintenance of international peace and security which are appropriate for regional action;

That the High Contracting Parties reaffirm their adherence to the principles of inter-American solidarity and cooperation, and especially

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[1] Treaties and Other International Acts Series (TIAS) 1838; 62 Stat. 1681–1715. Ratification advised by the Senate Dec. 8, 1947; ratified by the President Dec. 12, 1947; entered into force Dec. 3, 1948.

Chapultepec, all of which should be understood to be accepted as standards of their mutual relations and as the juridical basis of the Inter-American System;

That the American States propose, in order to improve the procedures for the pacific settlement of their controversies, to conclude the treaty concerning the "Inter-American Peace System" envisaged in Resolutions IX [1] and XXXIX [2] of the Inter-American Conference on Problems of War and Peace.

That the obligation of mutual assistance and common defense of the American Republics is essentially related to their democratic ideals and to their will to cooperate permanently in the fulfillment of the principles and purposes of a policy of peace;

That the American regional community affirms as a manifest truth that juridical organization is a necessary prerequisite of security and peace, and that peace is founded on justice and moral order and, consequently, on the international recognition and protection of human rights and freedoms, on the indispensable well-being of the people, and on the effectiveness of democracy for the international realization of justice and security,

Have resolved, in conformity with the objectives stated above, to conclude the following Treaty, in order to assure peace, through adequate means, to provide for effective reciprocal assistance to meet armed attacks against any American State, and in order to deal with threats of aggression against any of them:

ARTICLE 1

The High Contracting Parties formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.

ARTICLE 2

As a consequence of the principle set forth in the preceding Article, the High Contracting Parties undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle any such controversy among themselves by means of the procedures in force in the Inter-American System before referring it to the General Assembly or the Security Council of the United Nations.

ARTICLE 3

1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said

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[1] *Report of the Delegation of the United States of America to the Inter-American Conference on Problems of War and Peace, etc. . . .*, pp. 76–80.

[2] *Ibid.*, pp. 107–108.

Contracting Parties undertakes to assist in meeting the attack in th exercise of the inherent right of individual or collective self-defens recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked and unti the decision of the Organ of Consultation of the Inter-American System,[1] each one of the Contracting Parties may determine the immediat measures which it may individually take in fulfillment of the obligatio contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall mee without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken

3. The provisions of this Article shall be applied in case of an armed attack which takes place within the region described in Articl 4 or within the territory of an American State. When the attac takes place outside of the said areas, the provisions of Article 6 shal be applied.

4. Measures of self-defense provided for under this Article may b taken until the Security Council of the United Nations has taken th measures necessary to maintain international peace and security.

ARTICLE 4

The region to which this Treaty refers is bounded as follows: beginning at the North Pole; thence due south to a point 74 degree north latitude, 10 degrees west longitude; thence by a rhumb line to point 47 degrees 30 minutes north latitude, 50 degrees west longitud thence by a rhumb line to a point 35 degrees north latitude, 60 degree west longitude; thence due south to a point in 20 degrees north latitude; thence by a rhumb line to a point 5 degrees north latitude, 24 degrees west longitude; thence due south to the South Pole; thenc due north to a point 30 degrees south latitude, 90 degrees west longitude; thence by a rhumb line to a point on the Equator at 97 degree west longitude; thence by a rhumb line to a point 15 degrees nort latitude, 120 degrees west longitude; thence by a rhumb line to a poin 50 degrees north latitude, 170 degrees east longitude; thence due nort to a point in 54 degrees north latitude; thence by a rhumb line to point 65 degrees 30 minutes north latitude, 168 degrees 58 minutes seconds west longitude; thence due north to the North Pole.[2]

ARTICLE 5

The High Contracting Parties shall immediately send to the Security Council of the United Nations, in conformity with Articles 51 and 54 of the Charter of the United Nations, complete information concerning the activities undertaken or in contemplation in th exercise of the right of self-defense or for the purpose of maintaining inter-American peace and security.

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[1] See articles 11 and 12, *infra*.

[2] See map in report of the Senate Committee on Foreign Relations, Dec. 5 1947, *infra*, p. 806.

If the inviolability of the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

ARTICLE 7

In the case of a conflict between two or more American States, without prejudice to the right of self-defense in conformity with Article 51 of the Charter of the United Nations, the High Contracting Parties, meeting in consultation shall call upon the contending States to suspend hostilities and restore matters to the *statu[s] quo ante bellum*, and shall take in addition all other necessary measures to reestablish or maintain inter-American peace and security and for the solution of the conflict by peaceful means. The rejection of the pacifying action will be considered in the determination of the aggressor and in the application of the measures which the consultative meeting may agree upon.

ARTICLE 8

For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.

ARTICLE 9

In addition to other acts which the Organ of Consultation may characterize as aggression, the following shall be considered as such:

a. Unprovoked armed attack by a State against the territory, the people, or the land, sea or air forces of another State;

b. Invasion, by the armed forces of a State, of the territory of an American State, through the trespassing of boundaries demarcated in accordance with a treaty, judicial decision, or arbitral award, or, in the absence of frontiers thus demarcated, invasion affecting a region which is under the effective jurisdiction of another State.

ARTICLE 10

None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

Article 11

The consultations to which this Treaty refers shall be carried out by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty, or in the manner or by the organ which in the future may be agreed upon.

Article 12

The Governing Board of the Pan American Union may act provisionally as an organ of consultation until the meeting of the Organ f Consultation referred to in the preceding Article takes place.

Article 13

The consultations shall be initiated at the request addressed to the Governing Board of the Pan American Union by any of the Signatory States which has ratified the Treaty.

Article 14

In the voting referred to in this Treaty only the representatives of the Signatory States which have ratified the Treaty may take part.

Article 15

The Governing Board of the Pan American Union shall act in all matters concerning this Treaty as an organ of liaison among the Signatory States which have ratified this Treaty and between these States and the United Nations.

Article 16

The decisions of the Governing Board of the Pan American Union referred to in Articles 13 and 15 above shall be taken by an absolute majority of the Members entitled to vote.

Article 17

The Organ of Consultation shall take its decisions by a vote of two-thirds of the Signatory States which have ratified the Treaty.

Article 18

In the case of a situation or dispute between American States, the parties directly interested shall be excluded from the voting referred to in the two preceding Articles.

Article 19

To constitute a quorum in all the meetings referred to in the previous Articles, it shall be necessary that the number of States represented shall be at least equal to the number of votes necessary for the taking of the decision.

Decisions which require the application of the measures specified in Article 8 shall be binding upon all the Signatory States which have ratified this Treaty, with the sole exception that no State shall be required to use armed force without its consent.

ARTICLE 21

The measures agreed upon by the Organ of Consultation shall be executed through the procedures and agencies now existing or those which may in the future be established.

ARTICLE 22

This Treaty shall come into effect between the States which ratify it as soon as the ratifications of two-thirds of the Signatory States have been deposited.

ARTICLE 23

This Treaty is open for signature by the American States at the city of Rio de Janeiro, and shall be ratified by the Signatory States as soon as possible in accordance with their respective constitutional processes. The ratifications shall be deposited with the Pan American Union, which shall notify the Signatory States of each deposit. Such notification shall be considered as an exchange of ratifications.

ARTICLE 24

The present Treaty shall be registered with the Secretariat of the United Nations through the Pan American Union, when two-thirds of the Signatory States have deposited their ratifications.

ARTICLE 25

This Treaty shall remain in force indefinitely, but may be denounced by any High Contracting Party by a notification in writing to the Pan American Union, which shall inform all the other High Contracting Parties of each notification of denunciation received. After the expiration of two years from the date of the receipt by the Pan American Union of a notification of denunciation by any High Contracting Party, the present Treaty shall cease to be in force with respect to such State, but shall remain in full force and effect with respect to all the other High Contracting Parties.

ARTICLE 26

The principles and fundamental provisions of this Treaty shall be incorporated in the Organic Pact of the Inter-American System.[1]

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers found to be in due and proper form, sign appearing opposite their signatures.

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[1] The proposed "Organic Pact of the Inter-American System" became the Charter of the Organization of American States, signed at Bogotá, Colombia, May 2, 1948; TIAS 2361 (2 UST 2394), and *A Decade of American Foreign Policy*, pp. 427–445.

Done in the city of Rio de Janeiro, in four texts respectively in the English, French, Portuguese and Spanish languages, on the secon of September nineteen hundred forty-seven.

RESERVATION OF HONDURAS:

The Delegation of Honduras, in signing the present Treaty and i connection with Article 9, section (b), does so with the reservatio that the boundary between Honduras and Nicaragua is definitivel demarcated by the Joint Boundary Commission of nineteen hundre and nineteen hundred and one,[1] starting from a point in the Gulf o Fonseca, in the Pacific Ocean, to Portillo de Teotecacinte and, fro his point to the Atlantic, by the line that His Majesty the King o Spain's arbitral award established on the twenty third of December o nineteen hundred and six.[2]

. . . .

STATEMENTS[3]

ARGENTINA:

The Argentine Delegation declares that within the waters adjacen to the South American Continent, along the coasts belonging to th Argentine Republic in the Security Zone, it does not recognize th existence of colonies or possessions of European countries and it add that it especially reserves and maintains intact the legitimate title and rights of the Argentine Republic to the Falkland (Malvinas Islands, the South Georgia Islands, the South Sandwich Islands, an the lands included in the Argentine Antarctic sector, over which th Republic exercises the corresponding sovereignty.

GUATEMALA:

Guatemala wishes to place on record that it does not recognize an right of legal sovereignty of Great Britain over the Territory of Belice called British Honduras, included in the Security Zone, and that onc again, it expressly reserves its rights, which are derived from the Constitution of the Republic, historical documents, juridical argument and principles of equity which have on appropriate occasions bee laid before the universal conscience.

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[1] Antonio Bermúdez M., *Límites definitivos entre Honduras y Nicaragua* (Tegucigalpa, 1938), pp. 23–43.

[2] *Ibid.*, pp. 107–112.

[3] These statements were appended to the Final Act of the Rio Conferenc (*Inter-American Conference for the Maintenance of Continental Peace and Security Quitandinha, Brazil, August 15–September 2, 1947;* Department of State publicatio 3016 (1948), pp. 45–57), not to the text of the Rio Treaty. Their bearing on th treaty rather than on the Final Act dictated their reprinting at this point. Th texts used here are from S. Exec. H, 80th Cong., 1st sess., p. 24.

Only because the Delegation of Guatemala has seen fit to make the preceding declaration, the Delegation of Mexico finds it necessary to reiterate that, in case there should occur a change in the status of Belice, there cannot fail to be taken into account the rights of Mexico to a part of the said territory, in accordance with historical and juridical precedents.

CHILE:

The Delegation of Chile declares that, within the waters adjacent to the South American Continent, in the extension of coast belonging to the Republic of Chile, comprised within the Security Zone, it does not recognize the existence of colonies or possessions of European countries and it adds that it especially reserves and maintains intact the legitimate title and rights of the Republic of Chile to the lands included in the Chilean Antarctic zone, over which the Republic exercises the corresponding sovereignty.

UNITED STATES OF AMERICA:

With reference to the reservations made by other Delegations concerning territories located within the region defined in the Treaty, their boundaries, and questions of sovereignty over them, the Delegation of the United States of America wishes to record its position that the Treaty of Rio de Janeiro has no effect upon the sovereignty national or international status of any of the territories included in the region defined in Article 4 of the Treaty.

2. REPORT BY THE ACTING SECRETARY OF STATE TO THE PRESIDENT, DECEMBER 1, 1947 [1]

The PRESIDENT,

The undersigned, the Acting Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, a certified copy of the inter-American treaty of reciprocal assistance, formulated at the Inter-American Conference for the Maintenance of Continental Peace and Security and signed at Rio de Janeiro in the English, French, Portuguese, and Spanish languages on September 2, 1947, by the plenipotentiaries of the United States of America and by the plenipotentiaries of other American Republics.[2]

There is included in the same volume with the text of the treaty above-mentioned the text of the final act of the Conference,[3] which and the texts of the various resolutions approved by the Conference The texts of the treaty and final act have been certified by the Secretary-General of the Conference. The final act does not require ratification.

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[1] S. Exec. H, 80th Cong., 1st sess., pp. 2–5.

[2] *Supra.*

[3] Act of Sept. 2, 1947; *Inter-American Conference for the Maintenance of Continental Peace and Security, Quitandinha, Brazil, August 15–September 2, 194* (Department of State publication 3016; 1948), pp. 45 ff.

The Inter-American Conference for the Maintenance of Continenta Peace and Security met in Petropolis, State of Rio de Janeiro, Brazil from August 15 to September 2, 1947. The United States delegation to the Conference, under the chairmanship of the Secretary of State included the following delegates: The Honorable William D. Pawley United States Ambassador to Brazil; the Honorable Arthur H Vandenberg, President of the United States Senate and chairman o the Committee on Foreign Relations; the Honorable Tom Connally United States Senator and a member of the Committee on Foreign Relations; the Honorable Sol Bloom, Member of the House of Representatives and of the Committee on Foreign Affairs; and the Honorable Warren R. Austin, Ambassador, United States representative to the United Nations.

The Conference was convened for the special purpose of formulating the treaty to which reference had been made in the Act of Chapultepec,[1] embodied in the final act of the Inter-American Conference on Problems of War and Peace,[2] which met in Mexico City from February 21 to March 8, 1945. In part I of the Act of Chapultepec it was declared in part:

> That every attack of a state against the integrity or the inviolability of the territory, or against the sovereignty or political independence of an American State, shall, conformably to Part III hereof, be considered as an act of aggression against the other States which sign this Act. . . .
>
> That in case acts of aggression occur or there are reasons to believe that an aggression is being prepared by any other State against the integrity or inviolability of the territory, or against the sovereignty or political independence of an American State, the States signatory to this Act will consult among themselves in order to agree upon the measures it may be advisable to take.

In part II of the Act of Chapultepec it was recommended that—

> the Governments of the American Republics consider the conclusion, in accordance with their constitutional processes, of a treaty establishing procedures whereby such threats or acts may be met by the use, by all or some of the signatories of the said treaty, of any one or more—

of certain measures. In anticipation of the establishment of the United Nations, it was stipulated in part III of the Act of Chapultepec that the pertinent activities and procedures—

> shall be consistent with the purposes and principles of the general international organization, when established.

The inter-American treaty of reciprocal assistance was drawn up in accordance with the recommendation in the Act of Chapultepec and the preamble, the treaty deals with—

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[1] TIAS 1543 (60 Stat. 1831); *A Decade of American Foreign Policy*, pp. 414–417.

[2] *Report of the Delegation of the United States of America to the Inter-American Conference on Problems of War and Peace, Mexico City, Mexico, February 21–March 8, 1945* (Department of State publication 2497; 1946), pp. 39–139.

> those matters relating to the maintenance of international peace and security which are appropriate for regional action.

This regional arrangement is thus of a type contemplated in chapter VIII of the United Nations Charter. It is entirely consistent with the purposes and principles of the United Nations and will facilitate and supplement the effective functioning of the United Nations. The authority of the Security Council, with regard to the application of enforcement measures and its general powers with respect to maintenance of international peace and security, are fully recognized in the treaty, and article 10 contains the stipulation that none of the provisions of the treaty—

> shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

The principal features of the treaty include (*a*) references to certain basic considerations and precedents (preamble); (*b*) a reaffirmation of basic principles with respect to the pacific settlement of disputes (arts. 1 and 2); (*c*) the stipulation of specific obligations in the event of an armed attack against an American state, with a definition of the areas within which an armed attack would invoke the maximum obligations of the treaty (arts. 3 and 4); (*d*) provisions for consultation and collective measures in the event of certain other dangers to continental peace (art. 6); (*e*) provisions specifying the types of measures which may be taken in either event and specifying certain acts of aggression (arts. 7, 8, and 9); (*f*) provisions assuring consistency with and fulfillment of the obligations under the United Nations Charter (art. 3, pars. 3 and 4, and arts. 5, 10, and 24); and (*g*) procedural matters affecting consultation regarding, and execution of, measures, voting, and the binding effect of decisions (arts. 11 to 21, inclusive).

The basic principle underlying the Act of Chapultepec is restated and extended in the treaty and concomitant obligations set forth in article 3 as follows:

> 1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.
>
> 2. On the request of the State or States directly attacked and until the decision of the Organ of Consultation of the Inter-American System, each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph and in accordance with the principle of continental solidarity. The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken.

Thus, apart from such collective measures as may be agreed upon in consultation, each of the parties obligates itself to take affirmative action to assist in meeting an armed attack. This important provision nized in the United Nations Charter, into an *obligation* under this treaty. The provision for immediate assistance is applicable to all cases of armed attack taking place within the territory of an American state or anywhere within the region delimited in article 4. This region embraces the American Continents and Greenland, adjacent waters, and polar regions immediately to the north and south of the American continents.

Regardless of where the armed attack may take place, the parties re obligated to consult immediately with one another to agree upon appropriate collective measures.

The Conference decided that no attempt should be made to define aggression in general terms, but two recognized types of aggression are specified in article 9.

In the event of an aggression which is not an armed attack or in the event of the occurrence of other possible dangers to the peace, the parties similarly obligate themselves in article 6 to consult to determine the measures to be taken to aid the victim of the aggression r to restore peace and security.

The recommendation in the Act of Chapultepec with respect to the measures which might be taken to meet threats to inter-American peace and security or acts of aggression against any American state is restated in article 8 of the treaty as follows:

> For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radio-telephonic or radio-telegraphic communications; and use of armed force.

Article 7 provides that in the event of a conflict between two or more American states, the initial collective action to be taken by the parties shall be to call upon the contending States to suspend hostilities and restore the situation to the *status quo ante bellum*.

It is provided in article 20 that decisions which require the application of the measures specified in article 8 shall be binding upon all the signatory states which have ratified the treaty, with the sole exception hat no state shall be required to use armed force without its consent. In article 17 it is provided that the Organ of Consultation shall take its decisions by a vote of two-thirds of the signatory states which have ratified the treaty. This arrangement, whereby the measures specified in article 8, with the one exception, become obligatory for all parties upon a two-thirds vote of the states parties to the treaty, represents a signficant advance in international relations.

Article 22 provides that the treaty shall come into effect between the states which ratify it as soon as the ratifications of two-thirds of the signatory states have been deposited. Article 23 contains additional protocolary provisions relating to signature and ratification.

Article 24 determines the procedure for the registration of the reaty, when it has entered into force, with the Secretariat of the United Nations. Such registration is to be effected through the Pan American Union but that any state party thereto may denounce it by a notification in writing to the Pan American Union, such denunciation to become effective for that state 2 years from the date of the receipt of such notification by the Pan American Union.

Article 26, the final article, provides that the principles and fundamental provisions of the treaty shall be incorporated in the Organic Pact of the Inter-American System. This has reference to an instrument in the nature of a basic constitution or charter for the reorganization of the System which it is contemplated will be considered and adopted at the forthcoming Ninth International Conference of American States to be held at Bogota, Colombia, early in 1948.

This treaty represents a significant advance in international cooperation for the maintenance of peace and security. Its provisions commit the other parties promptly to assist the United States in the event of an armed attack by any country on our territory or anywhere in the region defined by the treaty, and the United States similarly pledges its assistance to the other parties in case any of them is subjected to such an attack. In determining collective measures, the parties guarantee in advance to observe important decisions reached by two-thirds of them, reserving for their individual consent among the listed measures only the vital decision as to their participation in the use of armed force. The obligatory character of decisions by a two-thirds majority assures that the general collective will of the community can be made effective, and avoids the possibility that the operation of the treaty might be paralyzed through the nonconcurrence of a small minority.

The vital spirit of Pan American solidarity is implicit in the provisions of the treaty and there is every reason to believe that the treaty affords an adequate guaranty of the peace and security of this hemisphere, thereby assuring so far as possible a necessary condition to the continued advancement of the economic, political, and social ideals of the peoples of the American states.

Respectfully submitted.

Robert A. Lovett.

3. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, DECEMBER 5, 1947 (Excerpts)[1]

The Committee on Foreign Relations, having had under consideration the inter-American treaty of reciprocal assistance, signed at Rio de Janeiro on September 2, 1947, unanimously report the treaty favorably and recommend that the Senate advise and consent to its ratification.

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[1] S. Exec. Rept. No. 11, 80th Cong., 1st sess.

The inter-American treaty of reciprocal assistance is designed to put into permanent treaty form, within the framework of the United Nations Charter, the basic principles embodied in the Act of Chapultepec. The treaty would accomplish the following: (1) It imposes an obligation on the contracting parties to take positive action to assist in meeting an armed attack against any American state; (2) it provides for consultation and action, not only in the event of armed attacks and other acts of aggression but whenever any other fact or situation might endanger the peace of the Americas; (3) it outlines the machinery and organs of consultation which the American states will utilize in taking collective measures to meet such threats; (4) it defines a special hemispheric security area; (5) it enumerates the political, economic, and military measures which may be taken against an aggressor; and (6) it provides for the effective integration of inter-American peace machinery into the United Nations.

COMMITTEE HEARINGS

On December 4 the committee met with representatives of the State Department and the Joint Chiefs of Staff to examine in detail the provisions of the treaty. The principal witnesses were the Honorable Norman Armour, Assistant Secretary of State for Political Affairs, and Lt. Gen. M. B. Ridgway, Chairman of the Inter-American Defense Board and representative of the Army, Military Staff Committee, United States Mission to the United Nations. Other representatives of the State Department were John C. Dreier, Chief, Division of Special Inter-American Affairs; William Sanders, Associate Chief, Division of International Organization Affairs; and Ward P Allen, Division of International Organization Affairs. [Assistant Secretary Armour presented an over-all summary of the treaty, pointing out in particular the obligations of the signatory powers in the event of an armed attack or an act of aggression. His opening statement to the committee is attached as appendix 3 to this report. General Ridgway discussed the strategic aspects of the treaty, including the hemisphere defense area outlined in article 4, and the sanctions system contemplated in the agreement. The committee noted that no opposition to the treaty had been registered and considered that public hearings, under the circumstances, were not necessary.

NEGOTIATION OF THE TREATY

Building upon previous inter-American agreements for consultation in matters of common concern, the American Republics, at the Inter-American Conference on Problems of War and Peace held in Mexico City in March 1945, approved a declaration known as the Act o Chapultepec,[2] which provided that an attack by any state against an American state should be considered as an act of aggression agains

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[1] Not reprinted here.

[2] TIAS 1543 (60 Stat. 1831); *A Decade of American Foreign Policy*, pp. 414–417

occurred, the signatories would consult in order to agree on m to be taken, including the possible use of armed force.

This act was a temporary, wartime declaration not desig legislative ratification, and although its framers had in m Dumbarton Oaks proposals[1] for an international organizati act was concluded prior to the time when the adoption of the of the United Nations set the permitted pattern for regional arrangements.

Consequently, in accordance with a recommendation in itself, the American Republics convoked the Inter-American ence for the Maintenance of Continental Peace and Security h Petropolis in the State of Rio de Janeiro, Brazil, from Augu September 2, 1947, to translate the principles of the Act of Cha into permanent treaty form. The Conference was attended 250 delegates and advisers from 20 American Republics, the tions of 16 of which were headed by their Foreign Minister United States delegation was headed by the Secretary of Sta George C. Marshall, and included the following five delegates: Arthur H. Vandenberg, President of the Senate of the Unite and chairman of the Senate Committee on Foreign Relations; Tom Connally, ranking minority member of the Committee on Relations of the Senate of the United States; Representa Bloom, ranking minority member of the Committee on Foreign of the House of Representatives of the United States; Amb Warren R. Austin, United States representative to the United and Ambassador William D. Pawley, United States Ambass Brazil. The delegates were assisted by Mr. Norman Armour ant Secretary of State for Political Affairs, and others. In a lit 2 weeks the Conference reached complete agreement on the terms of a treaty. The Inter-American Treaty of Reciprocal ance now presented for the consideration of the Senate is th of their efforts.

MAJOR PROVISIONS OF THE TREATY

The principal provisions of the treaty may be briefly sum as follows:

The high contracting parties obligate themselves to refra the use or threat of force in their international relations in an ner inconsistent with the United Nations Charter or the treaty. pledge themselves to seek to settle all disputes by peaceful m

In the event of an armed attack by any state against the t of any American state, wherever that territory may be locate armed attack directed against any American state within a defined geographic area, all the other parties are obligated to the immediate assistance of the attacked state and, in a measures.

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[1] Proposals of Oct. 7, 1944; *Postwar Foreign Policy Preparation, 1* (Department of State publication 3580; 1949), pp. 611–619.

In the event of any other aggression affecting the sovereignty o political independence of an American state or in the event of any other fact or situation that might endanger the peace of America, the arties are obligated immediately to consult to agree upon measures which must be taken to assist the victim of aggression and those hich should be taken for the common defense.

In any of the above cases, the collective measures to be agreed upon are: The recall of chiefs of diplomatic missions, the severance o diplomatic and consular relations, the partial or complete interruption of economic relations or of transportation and communication facilities, and the use of armed force. If the attack takes the form f a conflict between two or more American states, the first collective measure to be taken is to call upon the parties to cease hostilities and restore matters to the status quo ante bellum.

Decisions taken in the consultation require a vote of two-thirds of the ratifying states, and decisions to take any of the measures enumerated above will be binding upon all the parties, except that no state shall be required to use armed force without its consent.

A meeting of the Foreign Ministers of the ratifying states will be he normal mechanism through which the consultations will take place and the decisions reached, but the Governing Board of the Pan American Union, in continuous session in Washington, may be utilized as a provisional organ of consultation to save time in urgent cases until the Foreign Ministers' meeting can be convoked.

The treaty constitutes a regional arrangement within the framework of the United Nations Charter to deal with those security matters which are appropriate for regional action. Action taken under it to meet an armed attack will continue only until the Security Council of the United Nations has taken the measures necessary to maintain or restore peace. Moreover, for any enforcement action under the treaty to meet aggression other than an armed attack, the authorization of the Security Council will be obtained. None of the provisions of the treaty impairs the rights or obligations of the parties under the United Nations Charter.

The treaty is open for signature by all American states and will come into force when ratified by two-thirds of the signatories. It may be denounced by any party, and the denunciation will become effective at the expiration of 2 years.

RENUNCIATION OF FORCE AND OBLIGATION TO SETTLE DISPUTES PEACEFULLY

In numerous treaties and agreements concluded in the past the 21 American Republics have denounced the use of force in international relations and have underlined their support of the fundamental principle that disputes between nations should be settled by peaceful means. Articles 1 and 2 of the present treaty, therefore, very properly reaffirm at the outset several of the basic obligations which appear in the threat of force in any manner inconsistent with the Charter or the treaty. They likewise undertake to submit every controversy which may arise between them to methods of peaceful settlement and to endeavor to settle such disputes by the use of existing inter-American peace machinery before referring them to the United Nations. This latter principle is in complete harmony with the Charter, which encourages member states to settle their disputes by means of their own choice.

OBLIGATIONS IN THE EVENT OF AN ARMED ATTACK

In the Act of Chapultepec there was no distinction in the obligations assumed with respect to various types of aggression. However, the Charter of the United Nations in dealing with regional security arrangements draws a clear distinction between an "armed attack" and other acts or threats of aggression. The framers of the present treaty decided, therefore, that the best way both to assure consistency with the Charter and to take full advantage of the freedom of action under the right of self-defense as recognized therein was to follow the pattern set up by the Charter.

A principal feature of the treaty, therefore, is the twofold obligation laid upon the parties in the event of an armed attack. First, each one of the parties is obligated "to assist in meeting the attack" (art. 3, par. 1). By this language the right of individual or collective self-defense recognized in article 51 of the United Nations Charter is converted into an obligation. The provision contemplates that the parties will begin to carry out their obligation to assist individually or collectively prior to consultation, and in the case of a sudden attack, this element of time might prove decisive. This is an essential point of the treaty.

In such a case it was recognized as impractical to seek to determine in advance in the treaty itself the nature, timing, and exact extent of the immediate assistance to be given. This decision is accordingly left to each of the parties under the terms of article 3.

The second obligation in the event of an armed attack is to consult without delay in order to examine the immediate measures of assistance already taken and to decide upon the measures of a collective character that should be put into effect. It is specifically provided in the treaty, as it is in the United Nations Charter, that both the individual and the collective measures may continue "until the Security Council has taken the measures necessary to maintain international peace and security."

HEMISPHERE DEFENSE AREA

Article 3, paragraph 3, of the treaty provides that the two obligations discussed in the preceding section of this report come into effect "in case of any armed attack which takes place within the region described in Article 4 or within the territory of an American state.

When the attack takes place outside of the said areas, the provisions of Article 6 shall be applied." This region, which is described in technical terms in article 4, is shown graphically on the accompanying map. It embraces both North and South America, including Canada and Alaska, together with Greenland, the Arctic and Antarctic regions of the continent, and all of the area lying between.

As brought out in the hearings before the committee, the effect of this definition of the region upon the two obligations discussed bove may be summarized as follows:

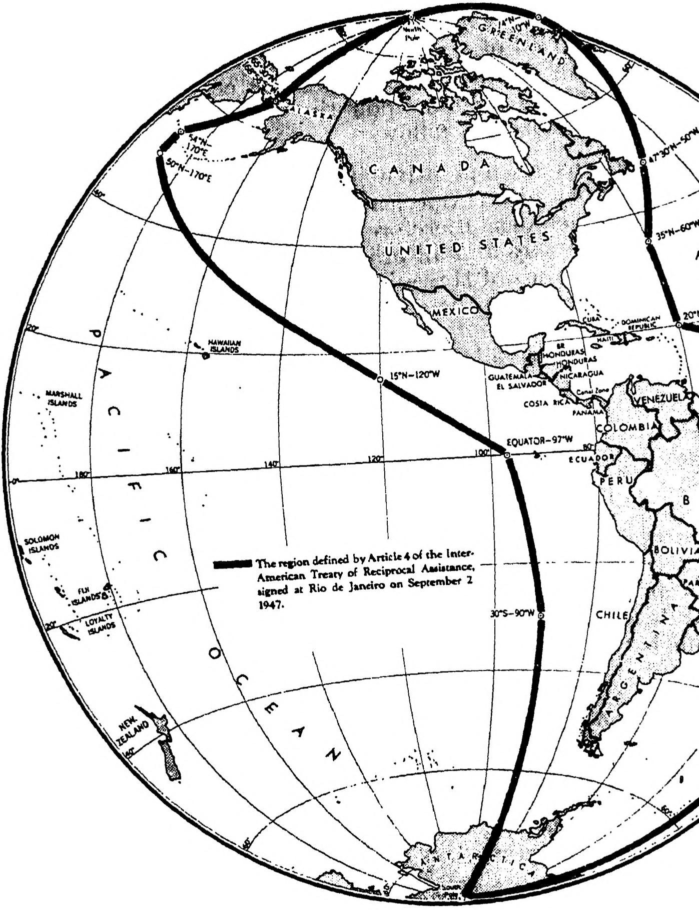
1. The obligations are operative if an armed attack takes place against "the territory of an American State" wherever that territory is located. This includes, therefore, not only the territory of the continental United States and all other American states on the continent, but also the islands of Hawaii, Guam, and any other possessions of this country abroad, since they all constitute a part of "the territory of an American State."
2. The obligations are likewise operative if an armed attack is directed against an American state and takes place within the region described. In such case it need not be against the territory of an American state but could take place anywhere within the region and might, for example, be against the land, sea, or air forces of such American state.
3. The term "American State" includes Canada.
4. If the attack is not directed against territory within the defense area or the territory of an American state outside the area, then the obligation of article 6 applies. As discussed below, this is an obligation to consult in order to agree upon the collective or individual measures which "must be taken . . . to assist the victim of the aggression."

The committee wants to emphasize the fact that the delineation of such an area in the treaty in no sense constitutes an attempt to define the Western Hemisphere. It simply serves to define the geographic area, in addition to the territories of the American states, within which an armed attack will bring into operation the individual obligation to extend immediate assistance to the state attacked.

OBLIGATIONS IN THE EVENT OF OTHER SITUATIONS WHICH MAY ENDANGER PEACE IN THE AMERICAS

Article 6 sets forth the additional situations, other than an armed attack, which may endanger peace and provides for the steps to be taken in order to deal with them. This article applies whenever the inviolability or integrity of the territory, the sovereignty, or the political independence of any American state is affected by—(1) an

[The following official map is reproduced here instead of the unofficial one appearing at this place in the Report.]


North Pole
74°N–10°W
GREENLAND
65°30'N–168°58'W
ALASKA
54°N–170°E
50°N–170°E
CANADA
47°30'N–50°W
35°N–60°W
UNITED STATES
MEXICO
20°N
CUBA
DOMINICAN REPUBLIC
HAITI
BR HONDURAS
HONDURAS
NICARAGUA
GUATEMALA
EL SALVADOR
Canal Zone
COSTA RICA
PANAMA
VENEZUELA
COLOMBIA
EQUATOR–97°W
ECUADOR
PERU
BOLIVIA
CHILE
ARGENTINA
HAWAIIAN ISLANDS
15°N–120°W
MARSHALL ISLANDS
SOLOMON ISLANDS
FIJI ISLANDS
LOYALTY ISLANDS
NEW ZEALAND
PACIFIC OCEAN
30°S–90°W
ANTARCTICA
South Pole
180°
160°
140°
120°
100°
80°
60°
40°
20°
0°

The region defined by Article 4 of the Inter-American Treaty of Reciprocal Assistance, signed at Rio de Janeiro on September 2 1947.

might endanger the peace of America.

Under the article, the occurrence of these events brings into operation similar but differently worded obligations. In case aggression is committed, the parties shall meet in consultation—

> in order to agree on the measures which must be taken . . . to assist the victim of the aggression.

In the case of an extracontinental conflict or of other situations that might endanger continental peace, the parties shall meet in consultation—

> in order to agree on . . . the measures which should be taken for the common defense and for the maintenance of the peace and security of the continent.

Unlike article 3, which sets forth obligations in the event of an armed attack, this article does not provide for immediate assistance in advance of consultation. The obligation is rather one to consult in order to agree upon appropriate collective measures. It is assumed that the situations contemplated under this article will not be of such urgency as to require immediate individual action on the part of the contracting states.

TYPES OF ENFORCEMENT MEASURES CONTEMPLATED

As has been pointed out above, in the event of an armed attack or an act of aggression the organ of consultation provided for in the treaty is to agree upon those measures of a collective character that should be adopted to assist the attacked state and to penalize the aggressor. The various political, economic, and military measures contemplated are specifically outlined in article 8. That article reads

> For the purposes of this Treaty, the measures on which the Organ of Consultation may agree will comprise one or more of the following: Recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations, or of rail, sea air, postal, telegraphic, telephonic, and radio-telephonic or radio-telegraphic communications; and use of armed force.

This enumeration in general follows the Act of Chapultepec and article 41 of the United Nations Charter. It will be noted that the treaty provides that the measures which may be agreed upon "will comprise one or more of the following." The language is thus mandatory rather than permissive, and presumably the organ of consultation, in deciding upon the enforcement action to be taken, must select one or more of the specific measures listed in article 8.

It will be noted, too, that economic relations, or rail, sea, air, postal, and other communications with the aggressor state, may be either partly or completely interrupted. This permits a great deal of flexibility in the severity of the measures which may be agreed upon by the organ of consultation.

Still a different type of action is contemplated in article 7 in case of a conflict between two American states. In such an event the con-will be taken which are necessary to reestablish or maintain peace or to settle the conflict by peaceful means. If these efforts to restore peace fail, however, collective enforcement action may be promptly taken.

MACHINERY OF CONSULTATION UNDER THE TREATY

The treaty provides for both a provisional and a regular mechanism through which consultations will take place and decisions be reached The normal organ of consultation will be the ministers of foreign affairs of the states which have ratified the treaty. The provisiona organ may be the Governing Board of the Pan American Union unti the meeting of the foreign ministers can take place. These two bodies are established instruments of action in the inter-American system and the designation of the Board to act provisionally should facilitate prompt action under the treaty in the event of an emergency.

VOTING PROVISIONS

One of the most significant aspects of the treaty is the provision regarding voting and the binding effect of decisions. All initial procedural and administrative decisions under the treaty are to be taken by an absolute majority of the states qualified to vote (art. 16). However, once the organ of consultation is convoked to consider a particular situation, all decisions are to be taken by a vote of two-thirds of the ratifying states (art. 17).

The requirement of two-thirds reflects the view of the overwhelming majority of the American Republics as expressed in consultations carried out prior to the Rio Conference and represents a middle ground between a requirement of unanimity and a simple majority. The decision was reached on the ground that a two-thirds majority is sufficiently high to assure that action taken will reflect the genera collective will of the American community and can thus be made effective, yet it avoids the possibility of paralyzing the operation o the treaty through the nonconcurrence of a small minority.

The parties obligate themselves to comply with such decision reached by a two-thirds majority to put into effect the punitive measures enumerated in article 8, except that no state is required to use armed force without its consent.

This means that when two-thirds of the voting states decide tha political or economic sanctions should be employed, each of the partie is bound by the decision, although it may have voted against it Moreover, the exception that no state shall be required to use armed force without its consent does not prevent the other states from employing military force in a given case if they so desire.

Thus no veto operates within the inter-American security system The committee agreed that this procedure represents a significan advance over the voting methods presently used in the United Nation and constitutes an important precedent for the future.

CONSISTENCY OF TREATY OBLIGATIONS WITH UNITED NATIONS CHARTER

At the Conference of Mexico City in 1945,[1] and subsequently at San Francisco,[2] it was generally agreed that regional security arrangements should be permitted and encouraged, but that they should be integrated into the over-all peace machinery of the world organization so that the two would complement each other and not work at cross purposes. The committee took note of the fact that, in accord with this general principle, the treaty is carefully and properly geared into he Charter of the United Nations. The preamble of the treaty, for xample, refers to an inter-American system "consistent with the purposes and principles of the United Nations" and to the conclusion of an agreement "concerning those matters relating to the mainenance of international peace and security which are appropriate for regional action." Moreover, article 10 makes it perfectly clear that he assumption of special hemisphere security commitments does not affect the obligations of the contracting parties toward the United Nations. Article 10 reads:

> None of the provisions of this Treaty shall be construed as impairing the rights and obligations of the High Contracting Parties under the Charter of the United Nations.

It follows from article 10 that any enforcement action decided upon by the American Republics under the treaty will be taken subject to the authorization of the Security Council as provided in article 53 of the Charter. So far as action necessary to meet an armed attack is concerned, it is specifically provided in article 3, paragraph 4, of the treaty that individual or collective measures "may be taken until the Security Council of the United Nations has taken the measures necessary to maintain international peace and security." This is an exact reproduction of the language of the self-defense provisions of the Charter.

The requirement of the Charter that the Security Council be kept fully informed of activities undertaken or in contemplation by regional security arrangements would seem to be fully covered by article 5 of the treaty. That article reads:

> The High Contracting Parties shall immediately send to the Security Council of the United Nations, in conformity with Articles 51 and 54 of the Charter of the United Nations, complete information concerning the activities undertaken or in contemplation in the exercise of the right of self-defense or for the purpose of maintaining inter-American peace and security.

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[1] See *Report of the Delegation of the United States of America to the Inter-American*

OBLIGATIONS ASSUMED BY UNITED STATES UNDER TREATY

In the opinion of the committee, the obligations assumed by the United States under the treaty are important but are by no means objectionable in view of the many benefits to be derived from close inter-American cooperation in case the peace of the Americas is disturbed. As set forth in some detail in the preceding sections of this report, in the event of an armed attack upon any American territory or within the region outlined in article 4, the United States would be confronted with two specific obligations. First of all, we would be called upon to extend immediate assistance to the state attacked. The character and amount of this assistance would be determined by our Government. In the second place, we would be bound to consult with the other American Republics without delay as to the enforcement measures which should be agreed upon. This obligation to consult would also apply to any other fact or situation which might endanger the peace of the Americas.

Apart from the obligation to extend immediate assistance and to consult, the United States would also be obligated to participate in any political or economic sanctions agreed upon by a two-thirds vote of the organ of consultation, even though we should vote against such measures. In no case, however, would we be required to use our armed forces without our consent.

BENEFITS TO BE DERIVED BY UNITED STATES

As [Assistant] Secretary Armour pointed out in his testimony before the committee, the benefits to be derived from the treaty by the United States are very tangible and very important. It is in effect a milestone of great significance in our quest for world peace and security, for it gives new vitality to the idea of hemispheric solidarity without detracting one iota from the principle of world collective security which we have subscribed to in the Charter of the United Nations. For the first time, in an inter-American agreement, the 21 American Republics have entered into firm commitments for complete mutua cooperation for the maintenance of peace and security in the New World.

It follows that, if the territory of the United States, either within or without the area outlined in article 4, is subjected to an armed attack, we can call upon the signatories to the treaty for immediate assistance. While such assistance will depend upon the individua state, it might possibly take the form of economic aid, the use o bases and other facilities, or perhaps even direct military assistance the way of an armed attack from any state within the hemisphere The only serious danger to our security lies in the possibility of a threat r an attack by a non-American power. It follows that the provisions of the treaty calling for immediate assistance in the event of an armed attack, and the provisions for enforcement action against the aggressor nation, are of particular importance to the United States. The treaty should contribute much to our own security both by strengthening the security of the hemisphere and, as a regional arrangement consistent with the United Nations Charter, by serving as a constructive factor in the maintenance of general world peace.

ACTION BY COMMITTEE

After careful and detailed examination of the provisions of the treaty, together with a consideration of its impact on American foreign policy, the committee unanimously agreed to report the treaty to the Senate with the recommendation that the Senate's approval to ratification be given. The final vote was 13 to 0.

PROMPT RATIFICATION DESIRABLE

In view of the considerations outlined above, the committee agreed that it would be highly desirable to proceed with the ratification of the treaty at the earliest practicable date. At the present time only two states, Mexico and the Dominican Republic, have completed ratification.[1] While other governments have the matter under consideration, it is apparent that many are waiting to see what the United States will do. Prompt action on our part, therefore, will result in speeding up the ratification process and putting the treaty into effect at an earlier date than would otherwise be possible. The need for such action constitutes one more example, in a world fraught with political and economic disorder, of the desirability for strong leadership on the part of the United States on behalf of peace, justice and law.

The committee also took note of the fact that the Ninth International Conference of American States is scheduled to be held in Bogotá, Colombia, early in 1948.[2] Among other items this Conference he inter-American system. Inasmuch as the principles and fundamental provisions of the Rio treaty are to be included in the organic pact of the inter-American system which will be drawn up at Bogotá and which will serve as a cornerstone for the new structure, the committee believes it highly important that the ratification of the United States be concluded before the conference convenes.

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[1] With reference to the phrase "have completed ratification" with respect to Mexico and the Dominican Republic, it should be noted that the phrase did not include deposit of instruments of ratification by Mexico, which state did not take this action until Nov. 23, 1948. The Dominican Republic deposited its instrument of ratification Nov. 21, 1947. The other American Republics took similar action on the dates indicated, as follows: the United States, Dec. 30, 1947; Panama Jan. 12, 1948; Colombia, Feb. 3, 1948; Honduras (with a reservation), Feb. 5 1948; El Salvador, Mar. 15, 1948; Brazil, Mar. 25, 1948; Haiti, Mar. 25, 1948 Paraguay, July 28, 1948; Uruguay, Sept. 28, 1948; Venezuela, Oct. 4, 1948 Nicaragua, Nov. 12, 1948; Costa Rica, Dec. 3, 1948; Cuba, Dec. 9, 1948; Chile Feb. 9, 1949; Argentina, Aug. 21, 1950; Bolivia, Sept. 26, 1950; Peru, Oct. 25 1950; Ecuador, Nov. 7, 1950; Guatemala (with a reservation), Apr. 6, 1955.

[2] See *Ninth International Conference of American States, Bogotá, Colombia March 30–May 1, 1948: Report of the Delegation of the United States of America with Related Documents* (Department of State publication 3263; 1948).

The North Atlantic Treaty

4. TEXT OF TREATY, APRIL 4, 1949 [1]

The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

They seek to promote stability and well-being in the North Atlantic area.

They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

They therefore agree to this North Atlantic Treaty:

Article 1

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security, and justice, are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

Article 2

The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

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[1] TIAS 1964; 63 Stat. 2241–2253. Ratification advised by the Senate July 21, 1949; ratified by the President July 25, 1949; entered into force Aug. 24, 1949.

Article 3

In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack.

Article 4

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

Article 5

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such ction as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and ecurity.

Article 6

For the purpose of Article 5 an armed attack on one or more of the Parties is deemed to include an armed attack on the territory of any of the Parties in Europe or North America, on the Algerian depart ents of France, on the occupation forces of any Party in Europe on the islands under the jurisdiction of any Party in the Nort Atlantic area north of the Tropic of Cancer or on the vessels o aircraft in this area of any of the Parties.[1]

Article 7

This Treaty does not affect, and shall not be interpreted as affecting in any way the rights and obligations under the Charter of the Partie which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of internationa peace and security not to enter into any international engagement in conflict with this Treaty.

Article 9

The Parties hereby establish a council, on which each of them shal be represented, to consider matters concerning the implementation of this Treaty. The council shall be so organized as to be able to meet promptly at any time. The council shall set up such subsidiary bodies as may be necessary; in particular it shall establish immediately a defense committee which shall recommend measures for the implementation of Articles 3 and 5.

Article 10

The Parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty. Any state so invited may become a party to the Treaty by depositing its instrument of accession with the Government of the United States of America. The Government of the United States of America will inform each of the Parties of the deposit of each such instrument of accession.

Article 11

This Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each deposit. The Treaty shall enter into force between the states which have ratified it as soon as the ratifications of the majority of the signatories, including the ratifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom and the United States, have been deposited and shall come into effect with respect to other states on the date of the deposit of their ratifications.[1]

Article 12

After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security.

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[1] Instruments of ratification were deposited by original member or acceding countries on the dates indicated in the following order: Canada, May 3, 1949; the United Kingdom, June 7, 1949; Belgium, June 16, 1949; Luxembourg, June 27 1949; Norway, July 8, 1949; the United States, July 25, 1949; Iceland, Aug. 1 1949; the Netherlands, Aug. 12, 1949; Denmark, Aug. 24, 1949; France, Aug. 24 1949; Italy, Aug. 24, 1949; Portugal, Aug. 24, 1949; Greece (accession), Feb. 18 1952; Turkey (accession), Feb. 18, 1952; and the Federal Republic of Germany (accession), May 6, 1955.

After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation.

Article 14

This Treaty, of which the English and French texts are equally authentic, shall be deposited in the archives of the Government of the United States of America. Duly certified copies thereof will be transmitted by that Government to the Governments of the other signatories.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

Done at Washington, the fourth day of April, 1949.

. . . .

5. STATEMENT BY THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, APRIL 27, 1949 [1]

I welcome this opportunity to discuss with you the North Atlantic Treaty signed on April 4. That treaty is no new document to you. It has been developed, to an extent without parallel in my knowledge, as a cooperative enterprise between the executive and legislative branches of the Government and particularly between the Department of State and this Committee. Without the vision and assistance of your chairman, [2] of your former chairman, [3] and the members of this Committee, this treaty could never have been concluded. The text embodies many constructive suggestions from members of the Committee.

The President has spoken on the treaty in recent weeks, and the Department of State has made available a considerable amount of source material regarding it. Since you already have in your possession some of what I shall say today, I shall make my statement as short as possible and will then be at your disposal for questions.

I should like briefly to review with you the reason for this treaty and its purposes.

It has been well said that "Everyone wants peace, but not everyone is prepared to work for it." No people in this world want peace more than the American people. They have always wanted it, they have sought it in various ways, but they have not always been ready to this treaty.

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[1] Department of State *Bulletin*, May 8, 1949, pp. 594–599. For report by the Secretary of State to the President, Apr. 7, 1949, see *A Decade of American Foreign Policy*, pp. 1332–1339.

[2] Senator Tom Connally.

[3] Senator Arthur H. Vandenberg.

When the United States was a small and weak country, isolated by many weeks from other continents, our forefathers wisely based our foreign policy upon the realities of those times, and we managed to stay apart, to a large extent, from developments in other lands.

However, our responsibility for assisting in the maintenance of peace beyond our borders has been long recognized and assumed. For more than a century and a quarter this Government has contributed to the peace of the Americas by making clear that it would regard an attack on any American state as an attack on itself. We gave our unilateral declaration to this effect.[1] As the years passed and our neighbors to the south grew in stature, they accepted a similar responsibility.

But beyond this responsibility, we did not see clearly the impact of an unstable world on our security. In 1920 many nations of the world joined in an attempt to maintain international peace and security through the League of Nations. Although the President of the United States had played a leading part in drafting the League Covenant,[2] the United States was not prepared to enter the League, and we withdrew from the participation with other nations in their first effort to wage peace on a world-wide basis. As a consequence, we had no effective means to prevent the Second World War.

But by 1945 after the tragedy of involvement in a second world war, we realized fully that times had changed, drastically and irrevocably. It is the responsibility of this generation to base the conduct of foreign affairs upon the realities of today. Today no place on earth is more than a few hours distant from any other place. Today neither distance nor ocean nor air affords security. Security today and henceforward can only be assured, in the President's words, by stopping war before it can start.

In 1945 a new and greater effort for the maintenance of international peace and security was undertaken in the establishment of the United Nations.[3] In the preamble of the Charter the peoples of the United Nations expressed their determination—

> to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind . . .

And for these ends

> to practice tolerance and live together in peace with one another as good neighbors, and
>
> to unite our strength to maintain international peace and security, and
>
> to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest . . .

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[1] Reference to the Monroe Doctrine; see *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930).

[2] For the annotated text of the Covenant of the League of Nations (articles 1–26 of the Treaty of June 28, 1919), see *The Treaty of Versailles and After Annotations of the Text of the Treaty* (Department of State publication 2724 1947), pp. 69 ff.

[3] For the full text of the Charter, see *supra*, pp. 134–161.

The first purpose of the United Nations, as stated in article 1 o the Charter is—

> to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

The American people overwhelmingly accepted this commitment and the other commitments laid down in the Charter. They showed not merely their desire for peace, but their determination to work for peace through full participation in "effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression." The hopes of the American people for peace with freedom and justice are based on the United Nations.

The Charter not only spells out, as did the Kellogg Pact,[1] the essential principle of settling disputes by peaceful means instead of by war it goes much further. The Charter commits all members of the United Nations to certain principles in the conduct of their foreign affairs which would, if carried out, do a number of things. First, they would secure peace and do away with the use of force as an instrument of national policy. Second, they would establish the right of nations to independence and self-determination. Third, they would establish that economic, social, and other problems can and should be worked out by international agreement and for the benefit of the peoples of all countries. Fourth, they would recognize and further human rights and fundamental freedoms. Here is more than a vague expression These are the foundations of a world system, based on law, which would do far more than merely prevent war.

Still, the Charter goes further. It establishes machinery and procedures for furthering these purposes. The fundamental fact of the Charter is that these mechanisms and procedures are the institutions and procedures of free peoples, based on solving difficulties and making progress through investigation of facts, free discussion, and decisions by adjustment among representatives of the member nations all of whom accept and are attempting to achieve the purposes of the world organization.

Now, any organization of free individuals or free peoples whether it is a private one, or a national one, or an international one, must proceed upon the basis that the vast bulk of those within it are firmly attached to the basic principles of the organization and are trying to carry them out. If this is so, adjustments are made within the area of common purposes; and, no matter how sharp disagreements may difficulty which would produce serious problems in any international organization, however perfectly devised. This difficulty is that a powerful group, even though a minority, has not genuinely accepted the purposes and principles of the organization and has used its institutions and procedures to frustrate them. This is not a defect of machinery. It is a defect in the basic attitude of some of the members which no change of machinery or procedure can cure.

One of the principal problems which has grown out of this situation which I have described is that a sense of insecurity and a fear of aggression have grown up in an important section of the world which is struggling to recover economically, politically, and socially from the drains of the last war. The recovery of this area is of vital concern to the whole world.

To attain a sense of security and to be free from the constant fear of armed attack is certainly one of the prime objectives of the United Nations. How, then, is this objective to be obtained when a few of the members of the United Nations frustrate the attempt to attain it through the machinery provided in the Charter? It is certainly not to be obtained by doing nothing about it. It is certainly not hostile to the United Nations or contrary to the Charter to attempt to attain this objective by methods wholly consistent with the Charter.

The United Nations is not a thing in itself. It is not an end in itself. It is a means to an end. The end is progressive development of a peaceful and stable world order where law rather than force and anarchy will govern the conduct of nations in their foreign relations. It was never in the minds of the framers of the Charter that the organization set up under it should be so distorted as to become an international instrument which paralyzed the pacific nations of the world, the possible victims of aggression, while leaving a would-be aggressor with completely free hands to deal with them one by one. In order that there should be no misunderstanding on this point, article 51 was inserted in the Charter.

If I may use an understatement, the sense of insecurity prevalent in Western Europe is not a figment of the imagination. It has come about through the conduct of the Soviet Union. Western European countries have seen the basic purposes and principles of the Charter cynically violated by the conduct of the Soviet Union with the countries of Eastern Europe. Their right to self-determination has been extinguished by force or threats of force. The human freedoms as the rest of the world understands them have been extinguished throughout that whole area. Economic problems have not been solved by international cooperation but dealt with by dictation. These same methods have been attempted in other areas—penetration by propaworld war unless this policy could be checked by peaceful means. He declared that if peace and security were to be preserved it could b done only "by mobilization of such a moral and material force a will create confidence and energy in the West and inspire respec elsewhere."[1]

With encouragement from the United States the Brussels treaty was signed on March 17, 1948.[2] The Brussels treaty system took the form, not of a network of bilateral alliances, as had originally been conidered, but of a collective defense arrangement within the framework of the United Nations Charter similar in many respects to the Ric treaty.[3] On the day the Brussels treaty was signed, the President, in addressing both Houses of Congress, called the treaty a notable step toward peace and expressed confidence that the determination of the free peoples of Europe to protect themselves would be matched by qual determination on our part to help them do so and that the United States would extend to the free countries the support which the situation might require.[4]

At that time the Congress had before it a number of proposals for strengthening the United Nations and making it a more effective intrument for the maintenance of international peace and security. My predecessor, General Marshall, and former Under Secretary of State Robert Lovett entered into consultation with the Committee on how the great influence of the United States might best be brought to bear in association with other free nations in strengthening the United Nations and furthering the cause of world peace.[5]

On May 19, 1948, this Committee unanimously reported Senate Resolution No. 239.[6] That resolution declared:

> Whereas peace with justice and the defense of human rights and fundamenta freedoms require international cooperation through more effective use of the United Nations: Therefore be it
>
> *Resolved,* That the Senate reaffirm the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except in the common interest, and that the President be advised of the sense of the Senate that this Government, by constitutional process should particularly pursue the following objectives within the United Nations Charter:
>
> (1) Voluntary agreement to remove the veto from all questions involving pacific settlements of international disputes and situations, and from the admission of new members.
>
> (2) Progressive development of regional and other collective arrangements for individual and collective self-defense in accordance with the purposes, principles, and provisions of the Charter.
>
> (3) Association of the United States, by constitutional process, with such

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[1] These remarks by Foreign Secretary Bevin were made in the House of Commons, Jan. 22, 1948.

[2] *Infra,* pp. 968–971.

[3] Treaty of Sept. 2, 1947; *supra,* doc. 1.

[4] Department of State *Bulletin,* Mar. 28, 1948, pp. 418–420.

[5] See Report of Senate Committee on Foreign Relations on the Vandenberg Resolution, May 19, 1948; S. Rept. 1361, 80th Cong., 2d sess.

[6] *A Decade of American Foreign Policy,* p. 197.

to exercise the right of individual or collective self-defense under article 51 shoul
any armed attack occur affecting its national security.

(5) Maximum efforts to obtain agreements to provide the United Nations wit
armed forces as provided by the Charter, and to obtain agreement among membe
nations upon universal regulation and reduction of armaments under adequat
and dependable guaranty against violation.

(6) If necessary, after adequate effort toward strengthening the United Nations
review of the Charter at an appropriate time by a General Conference calle
under article 109 or by the General Assembly.

It will be noted that of the six objectives recommended, number 1, 5, and 6 were designed to strengthen the United Nations on a universal basis. This requires the agreement of all the major powers Our efforts to achieve these objectives are being steadily pursued bu it has not yet been possible, and I am not able to say when it may b possible, to achieve them.

The second, third, and fourth objectives are designed to promot peace and stability by ancillary methods within the principles of th Charter. In its report on that resolution, the Committee declare that these relatively unexplored resources of the Charter should b further explored and developed as rapidly as possible.

For more than a year the members of the Committee and officer of the Department of State have been in consultation as to the natur of the problems involved, how they might best be met, and how th influence of the United States might best be brought to bear in th cause of peace. Throughout the negotiation of this treaty the Unite States negotiators have been guided by the wishes of the Senate a expressed in resolution 239. It is highly gratifying that the view of the Senate, as expressed in the unanimous report of this Committe on the resolution and the passage by the Senate of that resolution by a vote of 64 to 4, and in subsequent consultation on the text of th treaty, have been absolutely free of partisan spirit and have been move solely by the interests of the United States, of the United Nations and of world peace.

Following the resolution of the Senate, Mr. Lovett undertook t explore the matter with the Ambassadors of Canada, the Unite Kingdom, France, Belgium, the Netherlands, and Luxembourg. The objective of this Government and of the other Government participating in these discussions was to establish an arrangemen which would:

1. Increase the determination of the parties to resist aggression an their confidence that they could successfully do so;

2. promote full economic recovery through removing the drag of sense of insecurity;

3. stimulate the efforts of the parties to help themselves and eac other and, through coordination, to achieve maximum effectivenes for defense; and

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[1] Further details concerning these talks are given in the Senate Foreign Relations Committee's report on the treaty, *infra*.

4. contribute to the maintenance of peace and reduce the possibility f war by making clear the determination of the parties jointly to resist armed attack from any quarter.

I have explained the text of the treaty, article by article, in my report to the President,[1] which is before you, and I will not repeat that explanation at this point. I wish merely to stress certain essential points of the treaty.

The treaty is carefully and conscientiously designed to conform in every particular with the Charter of the United Nations and to contribute to the accomplishments of its purposes. This is made clear in article I, which reiterates and reaffirms the basic principle of the Charter, namely, that the participating countries will settle all their international disputes, not only among themselves but with any nation, by peaceful means in accordance with the provisions of the Charter. This declaration sets the whole tone and spirit of the treaty and provides unmistakable proof that any allegations that the treaty conceals aggressive intentions are obvious perversions of the truth. Democracies, by their very nature, must conduct their affairs openly. They could not, even if they wished, conspire against anyone, individually or collectively. Such allegations are belied both by the terms of the treaty and by the very nature of the free institutions pon which the signatory governments are founded.

Article II demonstrates the conviction of the parties that real peace is a positive and dynamic thing, that it is much more than the mere absence of war. In this article the signatory governments assert that they will strengthen their free institutions and see to it that the fundamental purposes upon which these institutions are founded are better understood everywhere. They also agree to seek to eliminate conflicts in their economic life and to promote economic cooperation among themselves. Here is the ethical essence of the treaty—the common resolve to preserve, strengthen, and make better understood he very basis of tolerance, restraint, freedom, and well-being, the really vital things with which we are concerned.

Article III, of which I will speak further later this morning,[2] embodies in the treaty the concept contained in the Senate resolution of "continuous and effective self-help and mutual aid." This means that no party can rely on others for its defense unless it does its utmost to defend itself and contribute toward the defense of the others.

The basic purpose of the treaty is, as recommended in the Senate resolution, to contribute to the maintenance of peace by making clear the determination of the parties to exercise the right of self-defense under article 51, should armed attack upon any party occur. This provision is contained in article V. If the treaty accomplishes its be prepared to do if an armed attack should occur.

Article V recognizes the basic fact that an armed attack upon any party would so threaten the national security of the other parties as t be in effect an armed attack upon all. It further provides that in the event of such an attack each of them will take, individually and i concert with the other parties, whatever action it deems necessary t restore and maintain the security of the North Atlantic area, including the use of armed force.

This naturally does not mean that the United States would automatically be at war if one of the other signatory nations were th victim of an armed attack. Under our Constitution, the Congress alone has the power to declare war. The obligation of this Government under article V would be to take promptly the action it deeme necessary to restore and maintain the security of the North Atlantic area. That decision would, of course, be taken in accordance with ou Constitutional procedures. The factors which would have to be considered would be the gravity of the attack and the nature of the actio which this Government considered necessary to restore and maintai the security of the North Atlantic area. That would be the end to b achieved. Under the treaty we would be bound to make an honest judgment as to what action was necessary to attain that end an consequently to take such action. That action might or might not include the use of armed force. If we should be confronted again wit an all out armed attack such as has twice occurred in this century an caused world wars, I do not believe that any action other than the us of armed force could be effective. The decision, however, woul naturally rest where the Constitution has placed it.

I believe it appropriate to outline briefly the role of the propose military assistance program in our over-all foreign policy and its relationship to the Atlantic pact. As you know, the President wil shortly recommend to the Congress the enactment of legislatio authorizing the transfer of military equipment and assistance to othe nations.[1] As you also know, the proposed program will request authorization and appropriation of $1,130,000,000 for Atlantic pac countries and approximately $320,000,000 for other countries, including Greece and Turkey, making a total of $1,450,000,000 for th fiscal year 1950.

The furnishing of military assistance to the Atlantic pact countrie is designed to assist us in attaining the fundamental goal of our foreig policy: the preservation of international peace and the preservatio of the security of the United States. Our aid to Greece and Turkey, the European Recovery Program[3]—the greatest of all measures t date in our foreign policy—Senate Resolution 239, the Atlantic pact which we are now considering, and the proposed military assistanc program, are all designed to this end.

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[1] The President's recommendations were enacted in the Mutual Defense As sistance Act of 1949; *A Decade of American Foreign Policy*, pp. 1356–1364.

[2] *Ibid.*, pp. 1252–1267.

[3] *Ibid.*, pp. 1268–1327.

You may ask why it is not enough to have the Atlantic pact alon since it accepts the principle that an attack on one is an attack on all Why does the Executive believe that it will be necessary to have military assistance program in addition to the commitments contained in the pact?

The answer is found in the insecurity and the fears of Wester Europe and of many of the other freedom-loving nations of the world Basic to the purposes of the military assistance program is the neces- ity of promoting economic recovery and political stability by providing a basis for confidence, a sense of security, and a reasonable assurance of peace among European peoples. The military assistanc program will improve the defenses and military capabilities of thes nations, and thus increase their will to resist aggression and thei ability to maintain internal security.

It is understandable that the free nations of Western Europe canno look forward with equanimity to invasion and occupation in the even f war, even if we guarantee subsequently to liberate them. Nor is i n our own interest to permit them to be occupied with the consequen necessity of the costly liberation of these areas. Our active foreig olicy has given rise in Europe to a great momentum of recovery and reat increase in the will to resist. The hope for peace lies in maintaining this momentum. The free countries of Western Europe mus be encouraged to continue their efforts towards recovery. Their wil to resist and their ability mutually to defend themselves must b trengthened. They must be encouraged and assisted to build up thei defense forces, through self-help and mutual aid, to a point wher aggression cannot take place through internal disorders growing fron the seeds sown by a potential aggressor, or under the guise of borde incidents. In short, they must regain, individually and collectively their ability to maintain their independence and national security This in itself is an additional deterrent to any would-be aggressor Thus, even without the existence of the North Atlantic Treaty, th need for assistance for defense of these countries would be the same With the pact, the assistance, once given, will be infinitely mor effective.

It is important, however, to view the objectives of the propose military assistance program in light of the objectives of article 3, the self-help and mutual aid article, of the North Atlantic Treaty, for the objectives of each are complementary. The objectives of both are to maintain and develop individual and collective capacity to resist by self-help and mutual aid. That is what article 3 is going to do; that i what the proposed military assistance program is going to do. Articl 3 does not bind the United States to the proposed military assistanc their collective security. The pact does not bind the Congress to reach that same conclusion, for it does not dictate the conclusion of honest judgment. It does preclude repudiation of the principle or of the obligation of making that honest judgment. Thus, if you ratify the pact, it cannot be said that there is no obligation to help. There is an obligation to help, but the extent, the manner, and the timing is up to the honest judgment of the parties.

I therefore earnestly trust that the Congress will see fit to enable this Government to carry out that aspect of its foreign policy represented by the proposed military assistance program. At the same time, I urge that both the treaty and the proposed military assistance program should be considered separately and on their own merits.

For my own part I believe that both the North Atlantic Treaty and the military assistance program will contribute to world-wide security.

The treaty is wholly consistent with the Charter and designed to strengthen the system of international law of which the Charter is the basis. It will give security and confidence to the signatory nations, whose common institutions and moral and ethical beliefs draw them naturally together and whose well-being is vital to world recovery.

The added security of these nations does not threaten or weaken any other nation or portion of the world. The principles which draw these nations into natural affinity and which they seek to defend—freedom of the individual, tolerance and restraint, and the rule of law, are the principles which unite free peoples throughout the world.

The determination to provide defense for these principles by the 12 nations joining in this treaty—added to the other steps taken by these and other nations to wage peace—must be an encouragement to all peoples who wish peace based on these principles.

The treaty is the practical expression of the determination that an aggressor cannot divide these nations and pick them off one by one History has taught us that the absence of such determination and of its clear statement in advance is gravely dangerous. The knowledge that armed attack will be met by collective defense, prompt and effective, will surely have a steadying effect on anyone from whom that transgression might come.

The political and moral strength which this treaty adds to the accumulating economic strength of a vital portion of the world will strengthen our ability to build a world in which freedom is maintained and expanded and in which the problems remaining and growing out of the war can be solved in an atmosphere free of the fear of aggression

In conclusion I should like to repeat to you words which the President used at the signing of the treaty: [1]

> It is a simple document, but if it had existed in 1914 and in 1939

mountable and forces that seemed overwhelming. Men with courage and vision can still determine their own destiny. They can choose slavery or freedom—war or peace.

I have no doubt which they will choose. The treaty we are signing here today is evidence of the path they will follow.

If there is anything certain today, if there is anything inevitable in the future, it is the will of the people of the world for freedom and peace.

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6. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, JUNE 6, 1949[1]

The Committee on Foreign Relations, to whom was referred the North Atlantic Treaty (Executive L, 81st Cong., 1st sess.), signed at Washington on April 4, 1949, unanimously report the treaty to the Senate and recommend that its advice and consent to ratification be given at an early date.

Part I. Background

1. MAIN PURPOSE OF THE TREATY

The basic objective of the treaty is to assist in achieving the primary purpose of the United Nations—the maintenance of peace and security. It is designed to do so by making clear the determination of the members of the North Atlantic community to safeguard their common heritage of freedom by exercising collectively their inherent right of self-defense in the event of an armed attack upon any of them, while making clear at the same time their determination to live in peace with all governments and all peoples.

2. TEXT OF NORTH ATLANTIC TREATY

[For the full text of the North Atlantic Treaty, see *supra,* doc. 4.]

3. BACKGROUND OF TREATY

The paramount desire of the American people is and always has been for peace and freedom. Since 1776 they have constantly striven, and sometimes fought, to maintain their own freedom and to further the development of freedom elsewhere. They have always sought to live in peace with all men.

Since 1823, when the Monroe Doctrine was promulgated,[2] this Government has contributed to the peace and freedom of the Americas

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[1] S. Exec. Rept. No. 8, 81st Cong., 1st sess.

[2] The portions of President Monroe's message to Congress of Dec. 2, 1823, known as the Monroe Doctrine, are quoted on p. x of *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930).

of the Americas as an attack upon the United States.
doctrine has become more deeply imbedded in Americ
policy. In 1947 all the American Republics joined in s
Treaty of Rio de Janeiro,[1] which provided that each would
attack on any one of them as an attack upon all.

Since World War II

In 1945 the United States Government and the Ameri
wholeheartedly accepted the obligations of the Charter of
Nations. In doing so they undertook the obligation not t
except in conformity with the Charter and the responsi
only of living up to that obligation but of using their influ
that other powers live up to it. No government has labo
or more unceasingly to reach international understandin
the United Nations and to make the United Nations a mo
instrument.

Unfortunately one great power and a small group of nat
its domination have not only refused to cooperate in the est
of a just and lasting peace, but have sought to prevent it, b
and without the United Nations. That power and its fift
in other countries have sought to prevent the establishmen
peace. It has sought to obstruct efforts for the promotion
welfare and stability in order to profit from human miser
ger in propagating its own system and advancing its
rialistic ends.

This threat to free institutions everywhere has caused f
to draw together in increased cooperation for both defens
nomic recovery, as reflected in the Brussels Treaty [2] and th
tion for European Economic Cooperation.[3] The Uni
Government, in giving effect to the desire of the America
assist in promoting peace and freedom, has taken far-rea
to this end in the act to provide for assistance to Greece an
and in the European recovery program of 1948 and 1949.[5]

Senate Resolution 239.—The concern of the American pe
unfavorable trend of postwar developments led to the in
into the Senate during the Eightieth Congress of a large
resolutions which aspired to change the United Nations
to chart a more effective course for United States foreign pol
the United Nations. The committee thoroughly can
issues involved, in close cooperation with the Departmen
and, on May 19, 1948, unanimously approved Senate Reso
which sought to focus these aspirations on the most c
measures it considered practicable.

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[1] *Supra*, doc. 1.
[2] *Infra*, pp. 968–971.
[3] *Infra*, pp. 992–1000.
[4] Act of May 22, 1947; *A Decade of American Foreign Policy*, pp.
[5] *Ibid.*, pp. 1268–1327.

That resolution was adopted by the Senate on June 11, 1948, by a vote of 64–4. It advised the President—

> of the sense of the Senate that this Government, by constitutional process, should particularly pursue the following objectives within the United Nations Charter
>
> (1) Voluntary agreement to remove the veto from all questions involving pacific settlements of international disputes and situations, and from the admission of new members.
>
> (2) Progressive development of regional and other collective arrangements for individual and collective self-defense in accordance with the purposes, principles, and provisions of the Charter.
>
> (3) Association of the United States, by constitutional process, with such regional and other collective arrangements as are based on continuous and effective self-help and mutual aid, and as affect its national security.
>
> (4) Contributing to the maintenance of peace by making clear its determination to exercise the right of individual or collective self-defense under article 51 should any armed attack occur affecting its national security.
>
> (5) Maximum efforts to obtain agreements to provide the United Nations with armed forces as provided by the Charter, and to obtain agreement among member nations upon universal regulation and reduction of armaments under adequate and dependable guaranty against violation.
>
> (6) If necessary, after adequate effort toward strengthening the United Nations, review of the Charter at an appropriate time by a General Conference called under article 109 or by the General Assembly.

Pursuant to this advice the President in July authorized the Secretary of State to enter into exploratory conversations on the security of the North Atlantic area with representatives of the Governments of Belgium, Canada, France, Luxembourg, the Netherlands, and the United Kingdom.[1] These conversations resulted in October in agreement that the establishment by treaty of a collective defense arrangement for the North Atlantic area within the framework of the United Nations Charter was desirable and necessary.[2] The North Atlantic Treaty was accordingly negotiated and signed on April 4, 1949, by representatives of the seven governments which had participated in the initial conversations and of the Governments of Norway, Denmark Iceland, Italy, and Portugal.

Executive-legislative cooperation.—The committee commends the close cooperation between the executive branch and the Senate, which has characterized the development of this treaty from inception to conclusion as an example of how important matters in the field of foreign relations should be handled. First the committee and the Department of State considered together the problems facing the United States in this field and the courses of action best suited to deal with them. The Senate then gave the President its advice as to particular objectives to be sought. The executive branch faithfully followed the advice of the Senate and, during the negotiations with the other governments, consulted fully with the committee, which played an effective part in formulating the terms of the treaty. From the beginning the deliberations of both the committee and the Senate on Senate Resolution 239 and the treaty have been conducted on a wholly nonpartisan basis. Finally, in order to give the American and other peoples the earliest possible opportunity to consider the treaty, its terms were made public considerably in advance of signature, as soon as they had been agreed upon by the negotiating governments.

4. COMMITTEE HEARINGS AND ACTION

The committee discussed with the Secretary of State the draft of the North Atlantic Treaty in two informal executive meetings on February 18 and March 8. The treaty, made public on March 18, was signed in Washington on April 4, and was transmitted to the Senate on April 12. Before commencing public hearings the committee met again on April 21 to consider the relationship of the treaty to the proposed military-assistance program. Public hearings, beginning on April 27, were held on 16 days—April 27–29, May 2–6, 9–13, and 16–18. Besides the committee members, various Senators attended or participated in the cross-examination of the witnesses. The very extensive and thorough hearings comprise three printed volumes.[1]

The first administration witness was Secretary of State Dean G. Acheson on April 27, 1949. The Hon. Warren R. Austin, Chief, United States Mission to the United Nations; Hon. Louis Johnson, Secretary of Defense; Hon. W. A. Harriman, United States special representative in Europe of the Economic Cooperation Administration; Hon. Robert A. Lovett, former Under Secretary of State; and Gen. Omar N. Bradley, Chief of Staff of the United States Army and representing the Joint Chiefs of Staff, completed the testimony presented for the administration by May 3.

In the succeeding weeks the committee heard all witnesses who requested to be heard. Among the 90 nongovernmental witnesses were representatives from a number of our important business, labor, agricultural, church, veterans, and service groups. In addition, the committee also received communications from organizations, such as the American Federation of Labor, the United States Chamber of Commerce, and the Junior Chamber of Commerce, placing them on record as favoring the treaty.

Following the conclusion of public hearings, the committee met in executive session on June 2 and 6 to evaluate the evidence gained in committee hearings and to consider the committee report. On June 6 the committee voted unanimously (13–0) to report the treaty favorably to the Senate with the recommendation that it be approved for ratification.

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[1] The hearings were published with the title *North Atlantic Treaty: Hearings before the Committee on Foreign Relations, United States Senate, Eighty-first Congress, First session on Executive L, 81st Cong., 1st sess., the North Atlantic Treaty.*

The treaty establishes a collective defense arrangement for th North Atlantic area within the framework of the United Nation Charter and based upon the inherent right of individual or collectiv self-defense recognized by article 51 of the Charter. In many respect it is similar to and patterned upon the Treaty of Rio de Janeiro.

The 12 signatories of the treaty are Belgium, Canada, Denmark France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, and the United States.

The treaty is subject to review at any time after 10 years and any party may cease to be a party after 20 years; otherwise it is of indefinit duration.

General objectives of the treaty

The primary objective of the treaty is to contribute to the maintenance of peace by making clear the determination of the partie collectively to resist armed attack upon any of them.

It is designed to strengthen the system of law based upon the purposes and principles of the United Nations. It should go far to remove any uncertainty which might mislead potential aggressors as t the determination of the parties fully to carry out their obligation under the Charter and collectively to resist an armed attack.

The security of the North Atlantic area is vital to the nationa security of the United States and of key importance to world peac and security. The peoples of the North Atlantic area are linke together not only by the interdependence of their security but by common heritage and civilization and devotion to their free institutions, based upon the principles of democracy, individual liberty an the rule of law. It is this common heritage and civilization and thes free institutions which the signatories are determined to defend.

The treaty is designed to contribute toward the further developmen f peaceful and friendly international relations, to strengthen the fre institutions of the parties and promote better understanding of th rinciples upon which they are founded, to promote conditions o stability and well-being, and to encourage economic collaboration. I should facilitate long-term economic recovery through replacing th sense of insecurity by one of confidence in the future.

Although it is intended that the general machinery and procedure provided in the Charter would be utilized in cases of disputes betwee the signatories, the treaty can of course be used as a regional arrange-ent under the United Nations for dealing with such matters as ar appropriate for regional action within the meaning of chapter VII of the Charter.

The obligations of national defense and advancing the welfare o its people are inherent in any government. The obligations to settl international disputes by peaceful means and to refrain from th threat or use of force, expressly reaffirmed in the treaty, were undertaken by this Government when it ratified the United Nations Charter

The new obligations undertaken by the United States in the treaty are—

1. To maintain and develop, separately and jointly and by means of continuous and effective self-help and mutual aid, the individual and collective capacity of the parties to resist armed attack (art. 3);
2. To consult whenever, in the opinion of any of the parties, the territorial integrity, political independence, or security of any of them is threatened (art. 4);
3. To consider an armed attack upon any of the parties in the North Atlantic area an attack against them all (art. 5); and
4. In the event of such an attack, to take forthwith, individually and in concert with the other parties, such action as the United States deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area (art. 5).

The treaty provides for a council and such subsidiary agencies as may be necessary, including a defense committee, to assist the parties in giving effect to the treaty.

Safeguards

The treaty in letter and in spirit is purely defensive. It is directed against no one; it is directed solely against aggression.

The treaty expressly provides that all of its provisions must be carried out in accordance with the respective constitutional processes of the parties.

The provisions of the treaty are expressly subordinated to the purposes, principles, and provisions of the United Nations Charter. The provisions of the Charter, wherever applicable, control every activity undertaken under the treaty.

PART III. ANALYSIS AND INTERPRETATION

PREAMBLE

The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.

They are determined to safeguard the freedom, common heritage, and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law.

They seek to promote stability and well-being in the North Atlantic area.

They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

They therefore agree to this North Atlantic Treaty.

The purposes and spirit of the treaty

The preamble states clearly and simply the purpose, intent, and spirit of the treaty. The committee endorses this declaration, which is formal recognition of the common interests, developing unity, and increasing interdependence of the North Atlantic community.

It should be emphasized, however, that the preamble is no expression of narrow regionalism for the members' will to live in peace i "with all peoples and all governments"—the primary purpose of th Charter of the United Nations. Moreover, peace, stability, and well-being in the North Atlantic area are of universal advantage in th cause of peace.

While cognizant of the elements of common heritage and civilization and of mutually acceptable principles, there is no intent to impos these upon other peoples. There is the determination, however, t safeguard the fundamental and dynamic nature of this commo heritage which includes, under God, the basic moral principles o democracy, individual liberty, and the rule of law.

ARTICLE 1.—PEACEFUL SETTLEMENT OF DISPUTES

> The Parties undertake, as set forth in the Charter of the United Nations, t settle any international disputes in which they may be involved by peaceful mean in such a manner that international peace and security and justice, are no endangered, and to refrain in their international relations from the threat or us of force in any manner inconsistent with the purposes of the United Nations.

In this article the members of the pact reaffirm the solemn obligations which they have accepted under the United Nations Charte to settle all their international disputes by peaceful means. The committee is convinced that the entire text of the treaty, and particularly this article, makes abundantly clear the will of the signatorie for peace and their desire to threaten no one.

Since the charter spells out in detail the machinery and the procedures which are available for such purposes, there is no need t provide any new machinery or procedures in the treaty.

By becoming parties to the treaty, countries which are not member of the United Nations, such as Italy and Portugal, accept the obligations set forth in article 2 of the Charter to settle any internationa disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are no endangered. Article 33 and other articles of the Charter set fort means of settling such disputes which are available for nonmember as well as members of the United Nations.

ARTICLE 2.—DEVELOPMENT OF PEACEFUL AND FRIENDLY RELATION

> The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institution are founded, and by promoting conditions of stability and well-being. They wil seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

institutions" recognizes that free institutions have succumbed in many places of the world and that eternal vigilance is still the price of liberty. The effort to secure "better understanding" of the principles upon which these institutions are based is a positive appreciation of the role of public opinion, both among the signatories and throughout the world. Free nations must take affirmative measures to this end, rather then resort to censorship or iron curtains. The gospel of freedom can best be spread by example.

The committee supports these objectives as desirable goals to be sought by the signatory parties. It believes that their progressive attainment will contribute to stability, well-being, and real peace.

No legislative action required

Considerable attention has been given by the committee to the question whether article 2, in stating these objectives, imposes on the United States any obligation to take specific legislative action. Would the references to "strengthening free institutions" and "eliminate conflict in their international economic policies," for example, mean that we would be obligated to enact additional legislation relating to civil rights, the reduction of tariffs, and similar matters?

The committee is completely satisfied that this article involves no obligation on us to take any legislative action whatsoever. In fact, no such obligations were contemplated by the negotiators and no new machinery is envisaged for these purposes under the treaty. The article does, however, provide encouragement for individual or bilateral action or action through such existing agencies as the United Nations, the Brussels pact, and the Organization of European Economic Cooperation.

The committee finds no implication whatever in article 2 that the United States could be called upon under the treaty to contribute toward a long-term recovery program for Europe.

ARTICLE 3—SELF-HELP AND MUTUAL AID

> In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack.

Article 3 embodies in the treaty the principle of continuous and effective self-help and mutual aid established by Senate Resolution 239 as a prerequisite to United States association in any collective defense arrangement. This principle has formed the basis of the European recovery program. In both cases the committee is con-determine for itself what it could most effectively contribute in the form of facilities, military equipment, productive capacity, manpower etc. This decision would be taken in the light of the resources and geographical location of the individual state and with due regard for its economic stability. There is no specific obligation as to the timing nature, and extent of assistance to be given by any party.

Clearly the capacity of the member states to resist armed attack depends primarily upon their basic economic health. The committee therefore, fully agrees with the view of the signatories that measures to increase the military strength of the parties must not be permitted to prevent achievement of the objectives of the European recovery program.

It has been suggested in some quarters that article 3 might be interpreted in such a way as to provide the basis for an armaments race. The committee rejects any such interpretation. Capacity to resist armed attack includes all elements, including economic strength and is relative to the degree of danger and the strength of potential aggressors. If the treaty and the United Nations are successful in providing substantially increased security, it should be possible to have greater capacity to resist armed attack with smaller military forces. The essential objective is increased security, not increased military strength.

Questions have also been raised as to whether the United States under article 3, would be obligated to assist the other parties to develop the capacity of their overseas territories to resist armed attack. The objective of the treaty is to maintain the peace and security of the North Atlantic area. During the negotiations there were no suggestions that this article should be interpreted as applying to any other area. The United States is under no obligation to assist the other parties in building up military establishments for use in their overseas territories, nor to engage in resisting armed attack outside the area defined in article 6.

The committee calls attention to the fact that the United States stands to gain great benefits from the principle of "continuous and effective self-help and mutual aid." Implementation of this principle will not only help deter aggression but will go far, in the event all the efforts of the parties for peace should fail, to assure the successful defense of the United States and the collective strength essential for victory.

ARTICLE 4—CONSULTATION

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.

In article 4 the parties undertake to consult whenever any party so requests on the basis that the territorial integrity, political independence, or security of any of them is threatened. A situation arising anywhere might be cause for consultation, provided that it constituted a threat to one or more of the parties and might involve that consultation could be requested only when the element of s present and expresses the opinion that this limitation should b strictly interpreted.

Many well-known techniques have been developed whereby interna disorders or coups are deliberately engineered by outside powers t further their own interests. Accordingly, consultation might als be sought under article 4 in the case of an internal disorder wher circumstances indicated that such disorder was being aided and abette by assistance from outside the country affected.

Article 4 carries no obligation other than that of consultation Whether or not any action was taken following consultation, or wha form such action might take, would be matters for each party t decide for itself. It should be emphasized, however, that in no event i collective enforcement action, such as that defined in articles 41 an 42 of the Charter, contemplated.

Use of United Nations machinery

Some sincere friends of the United Nations have expressed concer lest article 4 be implemented in such a way as to impair the usefulnes of the United Nations. Clearly such a danger would exist if consultations under the pact became so frequent they tended to replace Unite Nations machinery, or if such consultations resulted in a crystallization of views in advance of United Nations meetings and encourage pact members to vote as a "bloc." It would be particularly unfortunate if our Government took part in "exclusive" consultations wit Atlantic Pact members over situations of deep concern to friendl states in Asia, Africa, Latin America, or the Middle East.

The committee is confident that the framers of the Atlantic Pact di not intend that article 4 should infringe upon the efficacy of Unite Nations machinery or in any way impair its usefulness. Clearl there should be no duplication of United Nations machinery. It is the opinion of the committee that consultation under article 4 shoul not be sought unless the United Nations for some reason is prevente from dealing with the situation giving rise for consultation. Th committee wishes to emphasize this view since it has consistentl supported the United Nations as the cornerstone of American foreign relations, and would be loath to see any action taken not entirely in harmony with this policy.

ARTICLE 5—ACTION IN THE EVENT OF ARMED ATTACK

The Parties agree that an armed attack against one or more of them in Europ or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

Article 5 is the heart of the treaty. In it the parties establish the principle that an armed attack against one or more of them is to be considered an attack against them all. In accepting this principle the committee believes that the United States is acting on the basis of a realization brought about by its experience in two world wars that an armed attack in the North Atlantic area is in effect an attack on itself. The solemn acceptance of this principle by all the parties should have a powerful deterring effect on any would-be aggressor by making clear to him in advance that his attack would be met by the combined resistance of all the nations in the North Atlantic Pact.

Right of self-defense

From a legal point of view article 5 is solidly based on the inherent right of self-defense recognized in article 51 of the United Nations Charter. Article 51 in part reads as follows:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security.

Obviously, the right of individual or collective self-defense does not derive from the Charter; rather it is an inherent right of all states which is expressly recognized and preserved by article 51.

The specific commitment undertaken by each party in article 5 is that in the event of an armed attack in the North Atlantic area it will—

> assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area

Determination whether attack has occurred

The committee notes that article 5 would come into operation only when a nation had committed an international crime by launching an armed attack against a party to the treaty. The first question which would arise would be whether or not an armed attack had in fact occurred. If the circumstances were not clear, there would presumably be consultation but each party would have the responsibility of determining for itself the answer to this question of fact.

Experience has shown that armed attack is ordinarily self-evident there is rarely, if ever, any doubt as to whether it has occurred or by whom it was launched. In this connection, it should be pointed out that the words "armed attack" clearly do not mean an incident created by irresponsible groups or individuals, but rather an attack by one case and the nature and extent of the assistance, whether, in fact, an armed attack had occurred and article 5 thus brought into play.

"*Such action as it deems necessary*"

The second problem is the nature and extent of the action contemplated as a result of armed attack. The action specified is that deemed necessary "to restore and maintain the security of the North Atlantic area." The committee emphasizes that this clearly does not commit any of the parties to declare war. Depending upon the gravity of the attack, there are numerous measures short of the use of armed force which might be sufficient to deal with the situation Such measures could involve anything from a diplomatic protest to the most severe forms of pressure.

In this connection, the committee calls particular attention to the phrase "such action as it deems necessary." These words were included in article 5 to make absolutely clear that each party remains free to exercise its honest judgment in deciding upon the measures it will take to help restore and maintain the security of the North Atlantic area. The freedom of decision as to what action each party shall take in no way reduces the importance of the commitment undertaken. Action short of the use of armed force might suffice or total war with all our resources might be necessary. Obviously article 5 carries with it an important and far-reaching commitment for the United States; what we may do to carry out that commitment, however, will depend upon our own independent decision in each particular instance reached in accordance with our own constitutional processes.

President and Congress

During the hearings substantially the following questions were repeatedly asked: In view of the provision in article 5 that an attack against one shall be considered an attack against all, would the United States be obligated to react to an attack on Paris or Copenhagen in the same way it would react to an attack on New York City? In such an event does the treaty give the President the power to take any action, without specific congressional authorization, which he could not take in the absence of the treaty?

The answer to both these questions is "No." An armed attack upon any State of the United States by its very nature would require the immediate application of all force necessary to repel the attack. The Constitution itself recognizes the special significance of such a calamity by providing that the United States shall protect each State against invasion.[1] Similarly, the government of any nation party to be necessary to accomplish that end would depend upon a numbe of factors, including the location, nature, scale, and significance of th attack. The decision as to what action was necessary, and the actio itself, would of course have to be taken in accordance with establishe constitutional procedures as the treaty in article 11 expressly requires

Article 5 records what is a fact, namely, that an armed attac within the meaning of the treaty would in the present-day worl constitute an attack upon the entire community comprising the partie to the treaty, including the United States. Accordingly, the Presiden and the Congress, within their sphere of assigned constitutiona responsibilities, would be expected to take all action necessary an appropriate to protect the United States against the consequence and dangers of an armed attack committed against any party to th Treaty. The committee does not believe it appropriate in thi report to undertake to define the authority of the President to us the armed forces. Nothing in the treaty, however, including th provision that an attack against one shall be considered an attac against all, increases or decreases the constitutional powers of eithe the President or the Congress or changes the relationship betwee them.

Duration of action

Measures may be taken under article 5 only when an armed attack has occurred and must be terminated whenever the Security Counci has taken the measures necessary to restore and maintain internationa peace and security. Thus action under article 5 will never be necessary unless the Security Council has been unable to meet its responsibilities and must cease whenever the Security Council has regaine control of the situation. The treaty, like article 51 of the Charter provides insurance against a situation which the Security Council i unable to control. The committee is convinced that the treaty, i making clear that an aggressor could not profit from such a situation, provides a valuable supplement to the Charter in reducing th possibility that it might arise.

ARTICLE 6—DESCRIPTION OF NORTH ATLANTIC AREA

> For the purpose of Article 5 an armed attack on one or more of the Parties i deemed to include an armed attack on the territory of any of the Parties in Europ or North America, on the Algerian departments of France, on the occupatio forces of any Party in Europe, on the islands under the jurisdiction of any Party in the North Atlantic area north of the Tropic of Cancer or on the vessels o aircraft in this area of any of the Parties.

Article 6 specifies the area within which an armed attack woul bring the provisions of article 5 into operation. Thus, the obligation under article 5 are strictly limited to the area described.

The word “area” is intended to cover the general region, rather than merely the North Atlantic Ocean in a narrow sense, and includes the western part of the Mediterranean as well as the North Sea and mos of the Gulf of Mexico. Western Europe faces on the Atlantic eve if all the nations of the western European community do not.

area covered by the treaty was deliberately described in general terms rather than defined by lines on a map. The committee agrees that this general description is preferable, for it would seem inconsistent with the spirit of the treaty to provide that article 5 would come into operation in the event of an attack, for example, upon ships or aircraft at a given point but not if the attack occurred a few miles away. If there should be any doubt as to whether or not an armed attack has taken place within the area specified in the treaty, each party would decide for itself, in the light of the facts surrounding the particular situation and the significance of the attack.

Not applicable to overseas territories

During the hearings the question arose as to whether the obligations contained in article 5 would apply with respect to the dependent overseas territories of the signatory states. Since these territories are located in all parts of the world the problem assumes major proportions. The committee wishes to emphasize the fact that article 5 would not apply to any of the overseas territories outside the North Atlantic area as described in article 6. The three Algerian departments of France (which constitute only a small part of the total territory of Algeria) are an integral part of metropolitan France under the French Constitution and are not overseas possessions. The only outlying territories covered are the islands in the North Atlantic area, Alaska, the Aleutian Islands, and the islands of the Canadian Arctic.

ARTICLE 7—PARAMOUNT AUTHORITY OF THE UNITED NATIONS

> This Treaty does not affect, and shall not be interpreted as affecting, in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.

Lest there be any misunderstanding about the relative position of the treaty and the United Nations Charter, article 7 makes clear the overriding character of the Charter with respect to the obligations of the signatories who are also members of the United Nations. This principle is in accordance with the provisions of article 103 of the Charter which stipulates that—

> In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

The provisions of the Charter thus govern, wherever they may be applicable, any activities undertaken under the treaty.

The Charter also bestows upon the Security Council the primary responsibility for the maintenance of international peace and security. In the opinion of the committee the treaty rightly recognizes the primary responsibility of the Security Council in this field and makes clear the intent of the signatories not to compete with this responsibility or interfere with it in any way.

ons is applicable not only to the Security Council but to other ns of the United Nations, which, the committee understands, the es intend to use wherever appropriate.

ARTICLE 8—POSSIBLE CONFLICT WITH OTHER TREATIES

> ch Party declares that none of the international engagements now in force en it and any other of the Parties or any third state is in conflict with the sions of this Treaty, and undertakes not to enter into any international ement in conflict with this Treaty.

fore the details of the Atlantic Pact were made public, consider- concern was expressed lest its terms conflict with certain treaties agreements already in force. Both France and Great Britain, for ple, have treaties of alliance negotiated with the Soviet Union g World War II,[1] which obligate the parties to assist one another e event of an attack by Germany, or any state associated with nany in the war, and not to conclude any alliance, or take part y coalition, directed against either party. The Soviet Govern- asserts that under these treaties France and Britain could not ne parties to the pact. The committee thinks it is perfectly ous that the treaty is not an alliance or coalition directed against nation, but that it is directed solely against aggression.

ticle 8 is designed to make perfectly clear that none of the existing national engagements of any of the signatories is in conflict with rovisions of the treaty. Each signatory has solemnly declared in fact there is no conflict and that, in effect, they have no com- ents which would prevent them from carrying out their obliga- under the pact. The committee sees no reason why the United s Government should question the validity of this declaration by gnatories.

n peace treaty

e committee also examined the terms of the Italian peace treaty,[2] n limit the size of the Italian armed forces and the extent to n rearmament will be possible. Given these limitations the ion naturally arises as to whether Italy could live up to her ations under article 3 of the Atlantic Pact to develop her capacity sist armed attack. The matter is adequately disposed of by the ving statement supplied for the record by the State Department:

> s understood by all parties to the treaty that the participation of Italy in orth Atlantic Pact has no effect on the military provisions, or any other ions, of the Italian peace treaty. Any contribution which Italy makes collective capacity for defense of the North Atlantic area must be within nits fixed by the military provisions of the Italian peace treaty.

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[1] aty of Dec. 10, 1944, between France and the Soviet Union (*Documents ate Papers*, July 1948 (Department of State publication 3171), p. 230) and of May 26, 1942, between Great Britain and the Soviet Union (*British and n State Papers*, vol. 144, pp. 1038–1041).

[2] eaty of Feb. 10, 1947; 61 Stat., pp. 1245–1755.

> The Parties hereby establish a council, on which each of them sh
> sented, to consider matters concerning the implementation of this T
> council shall be so organized as to be able to meet promptly at any
> council shall set up such subsidiary bodies as may be necessary; in
> shall establish immediately a defense committee which shall recomme
> for the implementation of Articles 3 and 5.

While some machinery is clearly necessary for the effect
mentation of the treaty, it would be inadvisable to attempt t
this machinery in detail in the treaty. On the contrary, it is
that the machinery be described only in broad outline in
the specific organization may be evolved in the light of
experience. The committee urges that the organization se
simple as possible consistent with its function of assisting
tation of the treaty and that maximum use be made
organizations.

Since the council is given authority only "to conside
concerning the implementation" of the treaty, its powers
advisory with respect to governmental action. Its purpose
recommendations to the governments and to assist them i
coordinated decisions. It should be emphasized, howeve
responsibility for making decisions lies in the respective go
rather than in the council. Since the council will have onl
powers, no voting procedure is needed or contemplated.
will have a veto, nor can it be coerced into taking a decision
own judgment.

The defense committee will concern itself primarily wi
plans and recommendations for the implementation of arti
5, i. e., preparation for the exercise of the inherent right of
or collective self-defense. Being subordinate to the coun
will have only advisory powers. The establishment of an
or other agencies under the defense committee will be a func
council.

ARTICLE 10—NEW MEMBERS

> The Parties may, by unanimous agreement, invite any other Eu
> in a position to further the principles of this Treaty and to contr
> security of the North Atlantic area to accede to this Treaty. Any sta
> may become a party to the Treaty by depositing its instrument of ac
> the Government of the United States of America. The Govern
> United States of America will inform each of the Parties of the de
> such instrument of accession.

Unanimous agreement is required to invite other states
treaty. Other European states in the North Atlantic area
future be considered desirable additions to the pact and in
to accede to it. Since the other American Republics a
signatories of the Rio Treaty no provision was made for t
sion to this pact.

Senate action necessary on new members

Inasmuch as the admission of new members might rad
our obligations under the pact, the committee examined

decision respecting new members would be based solely on Presidentia action or would require Senate approval. Consequently, the committee was fully satisfied by the commitment of the President, delivered by the Secretary of State, that he would consider the admission of a new member to the pact as the conclusion of a new treaty with that member and would seek the advice and consent of the Senate to each such admission.[1] The committee considers this an obligation binding upon the Presidential office.

Spain and Germany

The signatory countries did not invite Spain to participate though it is recognized that Spain is strategically important to the defense of the North Atlantic area. Whether Spain will be invited to participate at a later date will depend upon the unanimous decision of the parties.

So many imponderables affect the current position of Germany, which is still under military occupation, that in the negotiations xtensive consideration was not given to the inclusion of western Germany. Presumably, Germany will be reunited one day, but time is required so that the German people may prove their attachment to he principles of the treaty. Meanwhile, it should be noted that ermany receives some protection since the treaty covers armed attack upon the occupation forces.

ARTICLE 11—CONSTITUTIONAL PROCESSES

This Treaty shall be ratified and its provisions carried out by the Parties in ccordance with their respective constitutional processes. The instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which will notify all the other signatories of each eposit. The Treaty shall enter into force between the states which have ratified it as soon as the ratifications of the majority of the signatories, including the atifications of Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom, and the United States, have been deposited and shall come into effect with respect to other states on the date of the deposit of their ratifications

The committee and the Senate, in Senate Resolution 239, attached great importance to assuring that any such agreement as the pact would not only be ratified in accordance with the “respective constitutional processes” of the signatory nations, but also that all its provisions would be carried out under the same constitutional safeguards. Constitutional processes for giving effect to the will of the people are the very essence of democracy and it is only through wide popular support that the treaty can be given the strength and vitality necessary to assure its success.

The committee wishes to emphasize the fact that the protective lause “in accordance with their respective constitutional processes” was placed in article 11 in order to leave no doubt that it applies not only to article 5, for example, but to every provision in the treaty. The safeguard is thus all-inclusive.

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[1] See Secretary Acheson’s statement of Apr. 27, 1949; *North Atlantic Treaty Hearings Before the Committee on Foreign Relations, United States Senate, Eighty-first Congress, First Session, on Executive L, Eighty-first Congress, First Session the North Atlantic Treaty*, pt. 1, p. 26.

The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander in Chief of the armed forces or impair the full authority of Congress to declare war.

Except for the proposed foreign military assistance program, no legislation related to the treaty is presently contemplated or considered necessary. The treaty would constitute legislative authorization for our share of the expenses of the organization contemplated in article 9, but appropriations by Congress would be necessary. As the United States representatives on the council and the defense committee will have no authority to bind the United States Government, the committee believes that officials previously appointed with the confirmation of the Senate will not require further confirmation for these assignments.

Effectiveness of the democratic process

It has been questioned whether a treaty subordinating action to the constitutional processes of 12 democratic nations offers sufficient certainty and immediacy of action effectively to deter aggression. The committee is convinced that it does. The expression of the will of a whole people offers far more certainty than any commitment by a dictator. The action of the democracies in the past great war is concrete evidence of their ability to act with the necessary speed in the event of an emergency.

Entry into force

The treaty enters into force when instruments of ratification have been deposited by each of the seven governments which participated in the initial negotiations—Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom, and the United States. To date, Canada is the only signatory which has deposited its ratification, but parliamentary approval has been given in Great Britain, Norway, Denmark, Belgium, Luxembourg, and Iceland.[1]

ARTICLE 12—REVIEW AND AMENDMENT OF TREATY

After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of its terms may be reviewed at any time after it has been in force 10 years. Of course, earlier review is possible by unanimous consent For purposes of review, the signatories will take into account the factors affecting peace and security in the North Atlantic area. The committee draws particular attention to the explicit reference tha developments in the United Nations, including universal as well as regional arrangements, will figure significantly among such factors

Apart from the general review contemplated in article 12 the treaty makes no provision for particular amendments. If such amendments were advanced, they would require the unanimous approval of the signatory states. In our own case the advice and consent of the Senate would be required. The committee believes that the interests of the United States would be amply protected by these safeguards

ARTICLE 13—DURATION OF TREATY

> After the Treaty has been in force for twenty years, any Party may cease to be a party one year after its notice of denunciation has been given to the Government of the United States of America, which will inform the Governments of the other Parties of the deposit of each notice of denunciation.

This article provides that after the treaty has been in effect for 20 years any party may cease to be a party 1 year after notice of denunciation has been given. There is no provision for individual members to withdraw prior to that time.

The committee gave serious thought to the problems involved in the duration of the treaty. In view of the difficulties of forecasting developments in the international situation in the distant future rigidity for too long a time clearly would be undesirable. On the other hand, the committee agrees that the stability and confidence which are so essential for the security of the North Atlantic area could not adequately be established if the treaty were of short duration. It accepts as a desirable solution, therefore, the indefinite duration of the treaty, with provision for review after 10 years, and for withdrawal after 20 years.

The treaty has been criticized in some quarters because it contains no provision for expulsion or the suspension of rights of a recalcitrant member which might fail to carry out its obligations as a result, for example, of its succumbing to communism. Given the nature of the pact and the close community of interests of the signatory states the committee believes that such a provision would be both unnecessary and inappropriate. Obviously, however, if a member persistently violates the principles contained in the pact, the other members will no longer be obligated to assist that member. Clearly it would fail "to safeguard the freedom . . ." of its people,

rate would be in no position either to carry out its ow
under the treaty or to expect assistance from the other p

ARTICLE 14—AUTHENTICITY OF TEXTS

This Treaty, of which the English and French texts are equally a
be deposited in the archives of the Government of the United Stat
Duly certified copies thereof will be transmitted by that Gover
Governments of the other signatories.

Article 14 is a formal article concerning the equal aut
the English and French texts which have been found to
in meaning. Each text being equally authentic, as is th
any treaty done in more than one language, neither prev
other, and any differences in interpretation which might
have to be settled by negotiation.

PART IV. OTHER FACTORS CONSIDERED BY THE CO

1. UNITED STATES INTEREST IN OTHER AREAS OF THE

We have learned that the security of the North Atla
vital to our own peace and safety. In accepting the ob
the treaty, therefore, we merely make clear that we are
course of action which we would follow without the tre
were to accept the same commitments on a world-wide
areas less vital to our national security, we might well run
of "spreading ourselves too thin."

Suggestions have been made that the United States enter
pacts with countries in the Middle East and Pacific are
the hearings members of the committee questioned ad
witnesses specifically on this point. It was established tha
States Government is not currently considering particip
other regional or collective defense arrangements.

Nevertheless, both the President and the Secretary of
emphasized on several occasions that our entry into collec
arrangements in the Western Hemisphere and the North A
should not be taken by anyone to mean that we do not
real interest in the maintenance of peace and security
The committee fully concurs in this position. Our inter
in other areas was clearly expressed when we ratified
Nations Charter and has been reiterated many times
special set of circumstances peculiar to Europe and the A
munity make the North Atlantic Treaty a logical dev
this time.

2. RELATIONSHIP OF THE TREATY TO THE UNITED N

As indicated throughout this report, the committee has g
consideration to the relationship of the treaty to the Unit
In view of the importance of this relationship, it seems
review it here in general terms.

The committee is convinced that the treaty is wholly consistent with the Charter, that it will strengthen the system of law based on the purposes and principles of the United Nations, and that it will greatly assist in accomplishing the primary purpose of the United Nations—the maintenance of international peace and security.

No duplication of United Nations machinery

The treaty is clearly based upon the inherent right of individual or collective defense against armed attack, expressly recognized and preserved by article 51 of the Charter. It is not intended to duplicate in any way, either through consultation or action, the existing machinery and procedures established by the Charter. With respect to consultation, the committee has expressed the view in connection with article 4 that consultation should not be held under the treaty unless the United Nations is for some reason prevented from dealing with the particular situation which has arisen. With respect to action the committee has noted that action under article 5 cannot be taken unless the Security Council has been unable to prevent an armed attack and that it must cease whenever the Security Council has been able to take the measures necessary to restore peace and security The treaty specifically provides that the provisions of the Charter are paramount, wherever applicable, with respect to all activities undertaken under the treaty.

Relationship of treaty to chapter VIII of Charter

The question has been raised as to whether the treaty establishes a regional arrangement within the meaning of chapter VIII of the Charter. As stated earlier in this report, the treaty is intended primarily to establish a collective defense arrangement under article 51. However, it is not necessary to define the organization of the North Atlantic community as exclusively one or the other. The treaty need not be departmentalized. Its purpose is to assist in achieving the great purposes of the Charter, primarily the maintenance of peace. It can be utilized as a regional arrangement under chapter VIII or in any way, subject to the principles and all pertinent provisions of the Charter, which may be useful to accomplish those purposes.

Application of article 51

The question has also been raised as to whether it was contemplated at San Francisco that continuing collective defense arrangements would be established under article 51 or whether that article merely provided for spontaneous action after an armed attack had occurred.

Article 51, as well as articles 52–54, were included in the Charter at the instance of the United States and Latin American delegations primarily in recognition of the inter-American system. It was made amply clear during the debates at San Francisco that other similar by the Rio Conference paid tribute to the United States

which later became article 51 of the Charter of the United Nations, which it has been possible to conclude the first treaty which develops t of collective self-defense.

Obviously neither individual nor collective self-defens exercised effectively unless it has been prepared in adv should be noted, however, that the treaty authorizes no advance of an armed attack, other than defensive preparat

No obligation to report defense plans

It has also been asked whether the parties would be ob the Charter to report such defensive preparations to th Council. Article 51 stipulates, and the stipulation is reaffirmed in article 5 of the treaty, that "measures taken b in the exercise of this right of self-defense shall be im reported to the Security Council." The right of self-defe "exercised" until an armed attack has occurred. Neither nor any other article of the Charter requires members to re for the exercise of this right. It is true that article 54 requ ber states to report to the Security Council on regional ac the maintenance of peace. These activities, however, those contemplated in articles 52 and 53. If such act undertaken under the treaty they would, of course, be go the provisions of those articles. Article 54 can in no wa preted as applying to plans for collective defense under art

3. COMPARISON OF TREATY WITH OLD-FASHIONED MILITARY

Some confusion may have arisen in the public mind allegations of certain critics that the treaty is an "ol military alliance" of the type which Washington warned his Farewell Address.[2] In the past, military alliances h widely in both their language and their intent. On the least, many of them were purely defensive in nature. The believes, however, that in actuality the present treaty is fun different from the old-fashioned alliances which character pean diplomacy during past centuries.

Some of these alliances constituted automatic commitm to war in the event the other parties became involved. Alliance,[3] for example, provided that the parties "will on a and in all places lend each other aid and assistance." So

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[1] Resolution of Sept. 2, 1947; *Inter-American Conference for the M Continental Peace and Security, Quitandinha, Brazil, August 15–Septe* (Department of State publication 3016; 1948), p. 55.

[2] Address of Sept. 17, 1796; James D. Richardson, *A Compilation of and Papers of the Presidents, 1789–1897* (10 vols.; Washington, 1 pp. 213–224.

[3] Treaty of Sept. 26, 1815, between Russia, Prussia, and Austria; *Foreign State Papers*, vol. III, pp. 211–212, and *Memorandum on Doctrine*, pp. 63–64.

were often related to each other. Many of them were kept secre and often those which were made public were accompanied by secre understandings, with aggression and national aggrandizement in th minds of the signatories if not in the actual texts of the treaties Most of them were limited to two or three parties.

The present treaty avoids all these undesirable aspects. Its entr into force and its execution depend upon the continuing support o the people of the signatory states given through their democrati constitutional processes. Moreover, it has been conceived within th framework of the United Nations Charter with all the solemn obligations against aggressive action which that document imposes upon it members. Finally, in both intent and language, it is purely defensiv in nature. It comes into operation only against a nation which, b its own action, has proved itself an international criminal by violatin the Charter and attacking a party to the treaty. It continues i operation only until the Security Council has taken the measure necessary to restore and maintain peace and security. If it can b called an alliance, it is an alliance only against war itself.

4. UNITED STATES ATTITUDE TOWARD COLONIAL POLICIES

Some opponents of the treaty have argued that its ratification b the United States might be construed as placing our stamp of approva on the colonial policies of other pact members. The committe categorically denies this assumption. The two things are completel unrelated. In accepting the treaty, the United States in no wa indicates support, approval, or disapproval of the colonial policies o other signatories. The purpose of the treaty is to maintain the peac and security of the North Atlantic area and its commitment of assistance is limited to cases of armed attack within that area. Whethe the United States will in fact support the colonial policies of any o the other signatories will depend entirely on our evaluation of thos policies under the conditions then existing and not on any obligation assumed under the pact.

5. RELATIONSHIP OF TREATY TO EUROPEAN RECOVERY

The European recovery program is designed to cure Europe's economic ills; the treaty is an antidote for insecurity. Obviously each of the programs can contribute much toward the success of the other. On the one hand, economic health is essential to stability and defensive strength. On the other hand, the treaty can do much to stimulate new business enterprise and increase production by dispelling the fear that has haunted western Europe since the war.

The committee believes it will be possible, with careful planning, to trengthen the military establishments of western Europe without retarding the progress of economic recovery. The two programs, however, are not directly connected. Various nations (Austria, Greece, Ireland, Sweden, Switzerland, Turkey, and the western zones of occupation in Germany) are participants in the OEEC but not in he OEEC.

In the event there is competition between the two programs for nanpower and materials, the committee has been assured that economic recovery will have first priority. The restoration of defense capacity will not be permitted to interfere with economic recovery. No increase in the armed forces of the parties, above that provided for in their present budgets, is currently contemplated. Moreover, increased production of military equipment must be undertaken within the existing slack of productive capacity so as not to interfere with production for civilian purposes.

Rather than hampering recovery the treaty should greatly stimulate and facilitate efforts for complete and long-term economic progress. Thus it should eventually make possible substantial savings fo the United States, both in connection with the European recovery program and our own domestic Military Establishment.

6. THE TREATY AND THE MILITARY ASSISTANCE PROGRAM

The committee did not consider in detail the military assistance program since legislation dealing with that matter has not yet bee submitted to the Congress. It is understood, however, that the President will soon recommend legislation authorizing the transfer of military equipment and assistance to the Atlantic Pact signatories.[2] Th proposed program will request $1,130,000,000 for members of th Atlantic Pact and approximately $320,000,000 for other countries including Greece and Turkey, making a total of $1,450,000,000 for th fiscal year 1950.

Whether approval of the treaty by the United States would consti tute any kind of commitment to support the military-assistance pro gram was discussed at considerable length during the hearings Clearly the ratification of the treaty would commit the United State to the principle expressed in article 3, namely, to maintain and develo the individual and collective capacity of the signatories to resist arme attack "by means of continuous and effective self-help and mutua aid." It is equally clear, however, that article 3 does not bind th United States to accept the proposed military-assistance program o for that matter, any particular kind of implementation program. I does bind our Government, as well as the other signatory government to the general principle of self-help and mutual aid. Each member o the pact will have to exercise its own honest judgment as to wha steps it should take to give effect to this principle.

The State Department has assured the committee that during th negotiations no commitments of any kind were made by the Unite States to furnish military assistance. The European negotiators wer constantly reminded that the implementation of article 3 by th

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[1] *Infra*, pp. 992–1000.

[2] See President Truman's message of July 25, 1949; Department of Stat *Bulletin*, Aug. 8, 1949, pp. 186–189.

vere told that the administration intended to introduce legislation uthorizing the transfer of military equipment, at the same time they vere repeatedly warned that no assurances whatsoever could be given s to whether or not, in what form or in what amounts, such legislation vould be approved.

With these factors in mind the committee agrees that the treaty nd the military-assistance program should be considered separately y the Congress, each on its own merits. The committee further grees that a member of the Senate might vote for the treaty and stil nd valid reasons for opposing the program of implementation recommended by the administration. During the hearings several member f the committee publicly announced that their support for the pac lid not necessarily mean they were going to approve the military ssistance program.

On this point the following statement of Secretary Acheson, as h estified before the committee, is pertinent:

> The judgment of the executive branch of this Government is that the Unite tates can and should provide military assistance to assist the other countrie n the pact to maintain their collective security. The pact does not bind th ongress to reach that same conclusion, for it does not dictate the conclusion o onest judgment. It does preclude repudiation of the principle or of the obligation of making that honest judgment. Thus, if you ratify the pact, it cannot b aid that there is no obligation to help. There is an obligation to help, but th xtent, the manner, and the timing is up to the honest judgment of the parties , therefore, earnestly trust that the Congress will see fit to enable this Government to carry out that aspect of its foreign policy represented by the propose military-assistance program.[1]

7. EUROPEAN INTEGRATION

Since 10 of the nations forming the North Atlantic Pact are European nations, the committee considered the possible effect of the pac on the development of European integration in the economic an political fields. Much practical integration has already been achieve through the Benelux union [2] and the Brussels Pact.[3] The Europea recovery program, which should insure a degree of lasting economi ntegration of the participating nations, and the proposed council c Europe,[4] which has as its objective cooperation in the political fiel are concrete and encouraging steps toward unity.

The committee believes that the North Atlantic Pact, by providin means for cooperation in matters of common security and nationa defense, creates a favorable climate for further steps toward progressively closer European integration. Moreover, cooperation for common security gives added momentum to the movement towar unification.

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[1] Statement of Apr. 27, 1949; *supra*, doc. 5.

[2] See convention of Sept. 5, 1944; *Moniteur Belge*, No. 236, Nov. 22, 1947.

[3] See treaty of Mar. 17, 1948; *infra*, pp. 968–971.

[4] See statute of May 5, 1949, as amended; *infra*, pp. 1001–1012.

While Germany is not a party to the North Atlantic Treaty the impact of the treaty upon Germany's future will be highly important. The committee believes it may make possible a solution of the German problem and a constructive integration of Germany into Western Europe.

It should be kept in mind that all of the signatories of the pact and particularly France and the other European countries, have suffered deeply from German aggression. All the signatory states are determined that Germany shall never again be permitted to threaten them. On the other hand, it is entirely possible that the German people may turn to the Soviet Union unless adequate and sincere efforts are made to provide them with a decent and hopeful future as an integral part of free Europe. Our European partners might be reluctant to accept Germany if it were not for the additional unity and security which the pact will afford.

The committee notes that there are already encouraging signs. In January 1949 the French Foreign Minister in a message to the German people declared that the German problem must be solved as part of the over-all European problem. He said:

> Our goal is above all to integrate all the European states in an association which should procure for all its members economic rehabilitation and political security.

Other European signatories have indicated similar views. Among the first concrete benefits of the pact were the highly satisfactory Anglo-Franco-United States agreements on Germany reached in April in Washington.[1]

9. WORLD OPINION

The committee believes that this treaty correctly represents the will of the American people, and the will of the other people of the North Atlantic community, to work for peace. In the United States it has the support of the great majority of our citizens. Abroad except for the discordant note expressed by the propaganda of the Soviet Government, its satellites and Communist parties, there is the general feeling that the treaty has already brought new hope and confidence for the future.

Among the signatory nations the conviction is unmistakable that the pact will receive the favorable verdict of history and of posterity. In the Canadian Parliament ratification was voted unanimously. In the Belgian, British, Norwegian, Danish, Luxembourg, and Icelandic Parliaments the vote was overwhelmingly in favor of the treaty, with only the Communists in organized opposition.

The peoples of other parts of the world have expressed their belief that the strengthening of the peace and security of the North Atlantic area will strengthen world peace and their own security. There is evidence that even behind the iron curtain many people find in the treaty new hope for the cause of freedom everywhere.

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[1] See *A Decade of American Foreign Policy*, pp. 585–590.

PART V. CONCLUSIONS AND RECOMMENDATIONS

1. NEED FOR RATIFICATION

committee believes that our failure to ratify the North Atlantic y would have disastrous consequences abroad. At the present here is an encouraging momentum of confidence that has been ng up in Europe during the past year as a direct result of our st and assistance. The failure of the political strikes in France, ommunist losses in the Italian and French elections in 1948 and the recent success of the French internal loan and the increased th of the western European currencies generally, the recent nents on Germany, and the success of the recovery program— se things reflect this growing momentum.

great retarding factor in the European situation has been the ding sense of insecurity. This sense of insecurity has been d during the past year as a direct result of American interest nmon security problems as demonstrated by the passage of e Resolution 239 and our willingness to negotiate and sign the Atlantic Treaty. The decision on the part of some of the ean nations, such as Norway and Denmark, to participate in eaty was not taken without full regard for the risks inherent in g clear their determination to resist aggression.

committee strongly believes that it would be in the best sts of the United States and indeed, the entire world, to sustain ncourage the momentum of confidence that has been building Europe, by ratifying the treaty at an early date.

. SUMMARY OF REASONS COMMITTEE URGES RATIFICATION

June 6 the committee unanimously agreed to report the treaty Senate for favorable action. Its reasons for recommending ation include the following:

The treaty should greatly increase the prospect that another an be averted by making clear in advance the determination se 12 nations of the North Atlantic area to throw their collective and influence into the scales on the side of peace.

It expresses in concrete terms the will of the American people, e other peoples of the North Atlantic area, to work constantly intain peace and freedom.

Since the course of action envisaged in the treaty is substan- that which the United States would follow without the treaty, is great advantage to the United States and the entire world in g clear our intentions in advance.

The treaty is expressly subordinated to the purposes, principles,

(6) The treaty is in accordance with the basic interests of the United States, which should be steadfastly served regardless of fluctuations in the international situation or our relations with any country.

(7) In strengthening the security of the North Atlantic area the treaty greatly increases the national security of the United States.

(8) It is strictly in accordance with the Senate's recommendation, expressed last year in Senate Resolution 239, that the United States should associate itself with collective defense arrangements and thus contribute to the maintenance of peace by making clear its determination to defend itself against any armed attack affecting its national security.

(9) The treaty will greatly increase the determination of the North Atlantic states to resist aggression and their confidence that they can successfully do so.

(10) It will free the minds of men in many nations from a haunting sense of insecurity and enable them to work and plan with that confidence in the future which is essential to economic recovery and progress.

(11) By encouraging this feeling of confidence and security it should eventually make possible substantial savings for the United States both in connection with the European Recovery Program and our domestic Military Establishment.

(12) The treaty is essential to the development of that degree of unity and security among the North Atlantic states which will make possible the reintegration of Germany into western Europe and the ultimate solution of the German problem.

(13) It will greatly stimulate the efforts of the North Atlantic states to help themselves and to help each other and, through proper coordination of these efforts, to achieve maximum benefits with minimum costs and bring far greater strength than could be achieved by each acting alone.

(14) In the event our efforts for peace are undermined and war is imposed upon us, the treaty assures us that 11 other nations will stand with us to defend our freedom and our civilization.

(15) The treaty is not confined to the prevention of war but reflects the will of the participating nations to strengthen the moral and material foundations of lasting peace and freedom.

In tendering this unanimous report on the North Atlantic Treaty, we do so in furtherance of our Nation's most precious heritage—shared in common with the other signatories—continuing faith in our dependence upon Almighty God and His guidance in the affairs of men and nations.

7. PROTOCOL TO THE NORTH ATLANTIC TREATY ON THE ACCESSION OF GREECE AND TURKEY, OCTOBER 17, 1951 [1]

The Parties to the North Atlantic Treaty, signed at Washington or 4th April, 1949,

Being satisfied that the security of the North Atlantic area will be enhanced by the accession of the Kingdom of Greece and the Republic of Turkey to that Treaty,

Agree as follows:—

ARTICLE I

Upon the entry into force of this Protocol, the Government of the United States of America shall, on behalf of all the Parties, communicate to the Government of the Kingdom of Greece and the Government of the Republic of Turkey an invitation to accede to the North Atlantic Treaty, as it may be modified by Article II of the present Protocol. Thereafter the Kingdom of Greece and the Republic of Turkey shall each become a Party on the date when it deposits its instrument of accession with the Government of the United States of America in accordance with Article 10 of the Treaty.[2]

ARTICLE II

If the Republic of Turkey becomes a Party to the North Atlantic Treaty, Article 6 of the Treaty shall, as from the date of the deposit by the Government of the Republic of Turkey of its instrument o accession with the Government of the United States of America, be modified to read as follows:—

> "For the purpose of Article 5, an armed attack on one or more o the Parties is deemed to include an armed attack—
>
> (i) on the territory of any of the Parties in Europe or North America on the Algerian Departments of France, on the territory o Turkey or on the islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer
>
> (ii) on the forces, vessels or aircraft of any of the Parties, when in o over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer."

ARTICLE III

The present Protocol shall enter into force when each of the Parties to the North Atlantic Treaty has notified the Government of the

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[1] TIAS 2390; 3 UST 43–51. Ratification advised by the Senate Feb. 7, 1952 ratified by the President Feb. 11, 1952; entered into force Feb. 15, 1952.

[2] Greece and Turkey acceded to the North Atlantic Treaty Feb. 18, 1952.

United States of America of its acceptance thereof.[1] The Government of the United States of America shall inform all the Parties tc the North Atlantic Treaty of the date of the receipt of each such notification and of the date of the entry into force of the present Protocol.

ARTICLE IV

The present Protocol, of which the English and French texts are equally authentic, shall be deposited in the Archives of the Government of the United States of America. Duly certified copies thereo shall be transmitted by that Government to the Governments of al the Parties to the North Atlantic Treaty.

In witness whereof, the undersigned plenipotentiaries have signed the present Protocol.

Opened for signature at London the 17th day of October, 1951.

. . . .

8. REPORT BY THE SECRETARY OF STATE TO THE PRESI DENT, DECEMBER 21, 1951 [2]

THE PRESIDENT,

I have the honor to submit to you, with a view to the transmissio thereof to the Senate for its advice and consent to ratification, a protocol to the North Atlantic Treaty on the accession of Greece and Tur key, which was opened for signature at London on October 17, 1951 and has been signed on behalf of the United States of America and th other parties to the North Atlantic Treaty.

For some years the United States Government has recognized tha the security of Greece and Turkey has an important bearing upon th national security of the United States and the security of other fre nations. This has been evidenced by the inauguration of the military aid programs with respect to Greece and Turkey in 1947,[3] by th extension of assistance under the Economic Cooperation Administration, and by repeated official statements on behalf of this Government. Moreover, for some time serious consideration has been give to the question of extending a United States security commitmen to Greece and Turkey, both of which have strongly supported collective measures to maintain international peace and security.

The Governments of Greece and Turkey welcomed the Nortl Atlantic Treaty as the most effective measure since World War I to deter aggression and have ever since repeatedly expressed a desire for formal inclusion in the western defense system. In recognition of this desire and of the importance of Greece and Turkey to the security of the North Atlantic area, the North Atlantic Council on September 19, 1950, invited Greece and Turkey to associate themselves—

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[1] Notifications of acceptance of this protocol to the North Atlantic Treat

> with such appropriate phases of the military planning work of the North Atlantic Treaty Organization as are concerned with the defense of the Mediterranean.[1]

Each country accepted the invitation. However, it soon became clear that this association did not provide an adequate means of integrating into western defense plants the maximum contribution which Greece and Turkey could make toward the common goal of the free world.

Last spring, accordingly, it became evident that in order to enhance western collaboration it was desirable and feasible to extend formal security arrangements to Greece and Turkey and to obtain reciprocal guaranties from these nations. Since admission to the North Atlantic Treaty Organization appeared to be an appropriate means by which such an arrangement might be accomplished, the question was explored with the Governments of the other North Atlantic Treaty countries and was subsequently discussed and thoroughly studied by their deputies in the North Atlantic Council. All North Atlantic Treaty Organization members recognized the necessity of a close link between the defense of the North Atlantic area and the defense of Greece and Turkey, but several wished to examine more fully the alternatives by which a link of this nature might be effectively established.

Following further consideration of the matter, the North Atlantic Council, at its meeting in Ottawa in September 1951, agreed that the accession of Greece and Turkey to the North Atlantic Treaty would be the most satisfactory solution.[2] Such an arrangement appeared to be the only one which would provide Greece and Turkey with adequate assurance of the full support of the North Atlantic countries and at the same time would permit Greece and Turkey, by undertaking the same obligations as the other parties to the North Atlantic Treaty, to make maximum contributions to the mutual defense program. The North Atlantic Council therefore adopted a resolution, proposed by the United States, recommending that the member governments undertake the steps necessary to permit the extension of an invitation to Greece and Turkey to accede to the North Atlantic Treaty, and that a protocol be formulated which would provide the basis for the accession of the two countries to the treaty.

instrument of accession with the United States in accordance with the provisions of article 10 of the treaty.

Article II of the protocol provides for an amendment to article 6 of the North Atlantic Treaty, which now defines the area within which an armed attack will bring the provisions of the treaty into play. This is necessary in order to include all of Turkey in that area. Other changes have been made in the text of article 6 to assure more precise definition of the area and to make a further amendment unnecessary when forces of the parties now specified in article VI as "occupation forces" cease to be occupation forces. The amendment will be effective when Turkey formally accedes to the treaty.

The protocol will enter into force, in accordance with article III thereof, when each of the parties to the North Atlantic Treaty has notified the United States of its acceptance of the protocol.

It is believed that the protocol transmitted herewith, providing for the inclusion of Greece and Turkey among the parties to the North Atlantic Treaty, will contribute materially to the development of the strength of the free world. It is hoped, therefore, that action of the United States with respect to the ratification of the protocol can be completed quickly in order to make it possible for Greece and Turkey to have a full partnership in the North Atlantic Treaty structure.

Respectfully submitted,

DEAN ACHESON.

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9. STATEMENT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF[1] BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, JANUARY 15, 1952[2]

Mr. Chairman and members of the committee, it is a privilege and a pleasure for me to appear before you today to request favorable action by the Senate on the protocol which provides that Greece and Turkey be invited to accede to the North Atlantic Treaty.

From the military viewpoint, it is impossible to overstate the importance of these two countries. The free nations which have joined together for mutual security would be strengthened considerably by their presence, and their presence would lend stability to an area which we consider to be extremely vital.

Greece and Turkey occupy strategic locations along one of the major east-west axes. They offer to the North Atlantic Treaty Organization large and capable military forces in being. Their territories are suitable for the conduct of defensive operations essential in the event of an aggression.

Turkey has a common boundary with Soviet Russia and her satellite state of Bulgaria. Greece is situated at the southern end of the Balkan Peninsula immediately adjacent to the satellite state defense system.

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[1] General of the Army Omar N. Bradley.

[2] S. Exec. E, 82d Cong., 2d sess.

Allied with the free nations, they would compel a diversion of the forces of Soviet Russia and her satellites in any aggressive move against the West.

Located as they are—and allied with the free nations—they serve as powerful deterrents to any aggression directed toward southern Europe, the Middle East, or North Africa.

The successful defense of those areas—any one or all of them—is dependent upon control of the Mediterranean Sea. Greece and Turkey block two avenues to the Mediterranean which an aggressor might endeavor to use should they decide upon a thrust there.

Greece, as the map will show, presents a barrier along the overland route from the Balkan States located to her north. Turkey, astride the Bosporus and Dardanelles, guards the approach by water from the Black Sea to the Mediterranean and to the Suez Canal and Egypt farther south.

Turkey, too, flanks the land routes from the North to the strategically important oil fields of the Middle East.

Evidence of the strategic importance of Greece and Turkey is to be found in the intensive efforts of international communism to bring Greece under Soviet domination, and in efforts of Russia, extending over almost 200 years, to gain control of the Turkish Straits.

Presently the southeastern flank of the forces under General Eisenhower is anchored in the central Mediterranean. Turkey and Greece occupy exposed and remote positions in the eastern Mediterranean. Integration of the forces of Greece and Turkey with those of the North Atlantic Treaty Organization would eliminate this unfavorable situation, and this should be done as soon as possible.

The strength of Greece and Turkey lies mainly in ground forces. The naval and air forces of the North Atlantic Treaty Organization would contribute greatly to the security of these two nations and give military balance to the area. The mutual benefits which would be derived from this are in the spirit of the treaty's collective security principles.

Both nations have large and relatively well-trained and well-equipped military forces which would aid materially in strengthening the collective defense system created under the North Atlantic Treaty Organization. External pressures on Turkey have compelled it to maintain one of the largest armies of any country outside the sphere of Soviet influence. Greece and Turkey were the first countries to receive postwar military assistance from the United States in modernizing their forces and increasing their combat capabilities. Its continuation has been a large factor in the development of their combat effectiveness.

The fortitude of the Greeks and Turks is well established. They were among the first to respond when the United Nations issued its appeal for troops to resist the invaders of South Korea.

In Korea we have been afforded an opportunity to witness the Greek and Turkish troops in action. I respect their stanch, courafield of battle has earned for them the respect of everyone serving in the armies of the United Nations.

Last September at Ottawa the North Atlantic Council recommended the inclusion of Greece and Turkey in the North Atlantic Treaty Organization.[1] At the same time it directed the military representatives of France, the United Kingdom, and the United States to discuss informally with Greece and Turkey the military problems which would arise through merging their forces with those of the North Atlantic Treaty Organization countries.

These discussions have brought me into close association with the military spokesmen for Greece and Turkey. Our talks have been conducted in an atmosphere of sincerity and in a spirit of frankness reflecting the solid friendship which characterizes the relationship between those countries and the nations which are now partners under the treaty.

I am convinced of their strong anti-Communist feelings and their firm determination to resist aggression and maintain their independence. I am convinced, too, that they are fully aware of the obligations which nations under this treaty must accept.

In the spring of 1951, the United States Joint Chiefs of Staff agreed that it was in our strategic interest that full membership in the North Atlantic Treaty Organization be accorded to Greece and Turkey They would provide a bulwark for General Eisenhower's southeastern flank, and provide obstacles to overland approaches threatening the Mediterranean and Middle East. In October, while en route to Athens and Ankara, I discussed this with General Eisenhower in the presence of Field Marshal Slim,[2] of the United Kingdom, and General Lécheres,[3] of France. General Eisenhower expressed himself as being in wholehearted accord with the proposal to bring Greece and Turkey into the North Atlantic Treaty Organization.

I cannot recommend too strongly that it is in the best interests of the United States to augment the North Atlantic Treaty Organization's strength by the inclusion of these two countries.

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10. STATEMENT BY THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, JANUARY 15, 1952 [4]

It gives me great pleasure to appear before you today in support of the protocol to the North Atlantic Treaty which the President has submitted to the Senate for its advice and consent. This protocol provides that upon its entry into force, following its approval by all accede to the treaty.

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[1] See the Council's communiqué of Sept. 21, 1951; *infra*, pp. 1614–1616.

[2] Field Marshal Sir William Slim, Chief of the British Imperial General Staff

[3] Gen. Charles Lécheres, Chief of Staff of the French Air Force.

[4] S. Exec. E, 82d Cong., 2d sess.

It is less than 5 years since this country authorized aid to Greece and Turkey to help them maintain their independence and national integrity. The strength of these two countries, increased by their own efforts and by our aid, will now be integrated with that of the other NATO countries, thus consolidating the defensive strength of the NATO. The executive branch of this Government actively sponsored this development during the Ottawa meeting of the North Atlantic Council in September 1951,[1] which led to the protocol now under consideration.

Greece and Turkey share the attachment of the present NATO members to democratic principles and to the principle of collective security. They will be important elements of strength in the NATO, not only because of their strategic location on the southeast flank of General Eisenhower's command, but because of their inherent strength and their determination to maintain their independence and freedom. In turn, they will benefit from the collective strength of the NATO to which they contribute.

Favorable action by the Senate on the protocol will be a logical extension, required in view of the present world situation, of a most important foreign-policy decision which was initiated on March 12, 1947. On that day President Truman appeared before a joint session of Congress in behalf of a policy of American support to "free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."[2] He requested authority to provide for assistance to Greece and Turkey to help these countries maintain their independence and national integrity. At that time the very existence of the Greek State was threatened by the activities of Communist-led guerrillas who were defying the Government's authority. Soviet pressures against Turkey were manifested by the Soviet proposal for joint Turkish-Soviet defense of the Turkish Straits, Soviet claims to two large provinces of eastern Turkey, and the Soviet announcement in March 1945 [3] that it would not renew the Turkish-Russian Treaty of Friendship.[4]

Recognizing the importance to the free world of the survival of Greece and Turkey, the Congress responded promptly to the President's request and authorized assistance in the amount of $400,000,000 for the period ending June 30, 1948.[5]

Thus, we moved to prevent the piecemeal murder of independent nations, a decision based, as the President said, on a "frank recognition that totalitarian regimes imposed on free peoples, by direct or indirect aggression, undermine the foundations of international peace and hence the security of the United States."

With the aid thus authorized, and with subsequent programs of militarily and economically. It is a strength based not onl material assistance which our aid programs make possible bu steadfast determination of these two countries to mainta independence and to resist external aggression, regardless source. It is a strength which has helped to deter Co aggression in the Eastern Mediterranean and Middle Ea areas of great importance to the security of Western Europe United States.

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[1] See *infra*, pp. 1613–1616.

[2] *A Decade of American Foreign Policy*, pp. 1253–1257.

[3] See the Soviet note to Turkey of Mar. 19, 1945; *British and Foreign State Papers*, vol. 145, pp. 1175–1176.

[4] Treaty of Dec. 27, 1925; *ibid.*, vol. 125, part III, pp. 1001–1002.

[5] Act of May 22, 1947; *A Decade of American Foreign Policy*, pp. 1 57–1261.

A new stage in the cycle has been reached. Greece and Tu to integrate their strength, which we have helped develop, w of the United States and the other 11 NATO countries.[2] By they will be contributing to the greater effectiveness of the c defense system which has been created under the North Atlant for the preservation of peace and security, thereby enhanc own security as well as that of the other NATO members.

The desire of Greece and Turkey to participate with th States in collective defense arrangements, either through me in the NATO, or through other regional or bilateral security ments, is not new. It had been expressed on many occasion ing the initiation of programs of aid to these countries in their own experience had demonstrated to them the wisdom o "situations of strength" as a deterrent to aggression. But ernment, in the early days of NATO, felt that it should not u such further responsibilities until the NATO structure had be established and until greater progress had been made in de the collective strength of its members.

In September 1950, however, a first step was taken by establish closer associations with Greece and Turkey.[3] T invited by the North Atlantic Council to associate themsel such appropriate phases of the military planning work of th as were concerned with the defense of the Mediterranean. vitation was accepted by the two countries but the associat NATO which it offered was not considered by them as an solution to their security requirements. This Government c to examine the question of whether developing further sec rangements would maximize the contribution which these could make toward the common goal of the free world.

In the spring of 1951, with the developing strength of N executive branch concluded that it was desirable and feasib clude formal security arrangements with Greece and Turkey membership of these countries in the NATO would be the form of arrangement. This Government then raised the with the United Kingdom and France because of their treaty

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[1] Act of Oct. 10, 1951; 65 Stat. 373–387. See also *infra*, pp. 3059–3

[2] Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, erlands, Norway, Portugal, and the United Kingdom.

[3] See Secretary Acheson's note of Sept. 19, 1950, to the Turkish A (*infra*, p. 2187) and related correspondence with Greece and Turkey (D of State *Bulletin*, Oct. 16, 1950, pp. 632–633).

ship with Turkey, arising out of the British-French-Turkish Treaty of Mutual Assistance concluded in 1939.[1] It also raised it with the other NATO members.

Each of the NATO members, faced with a proposal which involved an extension of the sphere of mutual interest and responsibility, naturally had to examine the problem, as we had done, from the viewpoint of its own interests and to reach its own decision. Thorough discussion of the problem by the Deputies of the North Atlantic Council, with the advice of NATO military agencies, led to general recognition that the participation of Greece and Turkey in a collective defense system on a reciprocal basis was in the interest of all concerned. Whether NATO membership or some other form of security arrangement would be most effective was then given consideration. As a result, at the meeting of the North Atlantic Council in Ottawa in September 1951, a resolution proposed by this Government, recommending that the NATO governments undertake the steps necessary to permit extension of an invitation to the two countries to accede to the treaty, was unanimously accepted. The entry into force of the protocol now before the Senate for its advice and consent will result in the invitation being issued.

What does accession to the treaty mean for Greece and Turkey? In the event they are attacked, they will stand, not alone, but as partners in a community of nations which is growing ever stronger and is pledged to consider an attack on any member of the community as an attack on all. It is through the development of the collective strength of the treaty members—economic and political as well as military strength—that the necessary deterrent to aggression can be created. The strength which Greece and Turkey are ready to contribute to a common cause will increase their own ability to maintain their freedom and independence and to insure their peaceful development, free from coercion. It will not lighten the burden of keeping themselves strong which they have been bearing willingly but it multiplies the benefits which they will derive from full and active participation in the NATO collective defense system. In addition, they will be equal members in an organization which seeks to develop cooperative action among its members in the economic and cultural fields as well as in the military field.

But the accession of Greece and Turkey to the NATO is also important to us.

The benefits of NATO membership for Greece and Turkey not only add to their security but to ours. One need only look at a map to appreciate the strategic importance of these two countries to the west. They guard the eastern approaches to the Mediterranean,

ment with the free world and the integration of their strengt
that of the collective strength of the present NATO members t
great significance in terms of our own security.

Both countries have large military forces in being—forces d
to defend, not extend their territories—as well as substantial n
of reserves. These forces offer a formidable deterrent to the agg
aspirations of their neighbors. American equipment and t
have helped these two countries modernize their defense est
ments and their combat effectiveness is steadily increasing.

The Greek Army has developed into a well-trained an
equipped fighting force. In 1949 it succeeded in destroyi
Communist-led guerrillas and in restoring authority to the
Government throughout Greek territory. The guerrilla war
over, and Greece has continued to keep large forces unde
because of the threat from the North. Approximately 40 per
its budgetary expenditures continue to be devoted to defense.

Turkey's military forces in being will be among the largest
NATO countries. The Turkish Army has a centuries-old tr
of defending its territory. It is an army which has been s
developing its combat capabilities, for the cornerstone of T
national policy is self-defense and, to this end, the maintena
national defense forces at the highest possible standard. The
ment and training which the United States has been supplying
in that development are being eagerly and effectively utilized.
substantial progress has already been achieved in the modern
which the Turks recognized that their army required. Intern
tensions and pressures from without have led the Turks to c
to maintain their military expenditures at a high level, averagi
over one-third of their total budgetary expenditures in the p
years.

This willingness of the two countries to maintain large n
of men under arms and to bear the burden of effective military
lishments is further convincing evidence of the importance whi
attach to their independence and freedom. But equally imp
to the free world is their recognition of the advantages of co
security, a principle to which they have given active support.
were among the first countries to respond to the appeal of the
Nations for forces to resist the Communist aggression in
Their fighting men have earned for their countries the admirati
respect of us all by their gallant heroism and the military q
that they demonstrated on the field of battle.

It is worth some emphasis that Greek and Turkish efforts hav
directed solely to the defense of their own freedom and that o
free nations. They have not manifested the slightest intent
their power for self-aggrandizement or aggression. This is
accord with the policy of the North Atlantic Treaty Organ
and of the United Nations. Those who have sought to bra
NATO as an aggressor organization will have to stretch the t
read aggressive intent into the expanded NATO. Their false

tions of aggressive intent are merely a means to try to divide and weaken our members. The free people of the world will not be misled by such obvious propaganda tactics in the light of the peaceful record of the 14 countries involved.

Both Greece and Turkey are democratic countries, working as are the present NATO members to strengthen their free democratic institutions, one of the principal objectives of the North Atlantic Treaty The political stability of the Greek Government has been considerably enhanced since 1947 and its authority has been established throughout the land. Martial law, made necessary by guerrilla warfare, has been lifted and the Greeks have on several occasions in recent years freely expressed their choice for parliamentary representation in free and independent elections. The Communist Party is outlawed and its influence is limited. The United Democratic Left Parties (EDA) which are generally considered in Greek circles to be strongly, though covertly, influenced by the Communists, hold only 4 percent of the parliamentary seats.

In Turkey there has been a very conspicuous development of democratic processes since 1947, culminating on May 14, 1950, in the first national elections during the lifetime of the young Republic in which fully organized opposition parties participated. As a result of these elections the party which had governed the Republic since it was founded in 1923 turned over the reins of government, in an atmosphere of calm, to a party founded only 4 years previously. I doubt that this event has many parallels in the history of democratic development One party rule has frequently led to democratic rule, but usually as a result of violence or revolution. The Turkish elections are an example of an evolutionary development, a development foreseen and planned by the founder of the Republic and carried on by his successor. Tha it could occur in a period of serious international tensions in an area directly exposed to the threat of external aggression is testimony to the maturity of the Turkish people and their leaders. Certainly Turkey's internal stability and the unity of its people on Turkey' foreign policy give strength to, as well as derive strength from Turkey's efforts to help maintain a high standard of military defense Communism finds very few supporters in Turkey. The Communis Party is banned and Communist adherents in the country are believed to number less than one-tenth of 1 percent of the population.

Both countries have been following a policy of active cooperation with the west. Economically as well as politically their principal ties are with the western nations. They participate in the Council of Europe[1] and in the Organization for European Economic Cooperation.[2] They are adherents to the General Agreement on Tariffs and

well as the United Nations Commission for the Rehabilit
Korea.[2] Greece has recently been elected to the Security Co

Our own relations with them have been traditionally frie
have been becoming increasingly close since our programs of
initiated in 1947. Fundamentally we share the same aspir
the creation of conditions in which we and other nations ca
from coercion tyranny. We are finding an ever-growing co
of interests as we come to know and understand each other

To sum up, I believe that the inclusion of Greece and T
NATO, while representing an extension of our formal security
ments, provides a more than compensating increase in the se
this country and of the North Atlantic community as a whole
case of mutual benefits. Their strategic location, their milita
bilities and determination, their active support of the pri
collective security, their increasingly successful efforts in s
ening their free institutions, their record of support of the p
of the United Nations Charter and the mutually satisfactory
relationship which we have enjoyed in recent years are facto
lead inescapably to this conclusion. In the interest of ma
the defensive strength of the free world through the integ
their strength into the North Atlantic Treaty Organization,
the "cradle of western democracy," and Turkey, the "eas
bastion of western democracy," should be invited to acced
North Atlantic Treaty.

11. REPORT OF THE SENATE COMMITTEE ON FO RELATIONS, JANUARY 21, 1952 [4]

The Committee on Foreign Relations, to whom was refe
protocol to the North Atlantic Treaty on the accession of Gr
Turkey (Ex. E, 82d Cong., 2d sess.), signed at London on
the United States on October 17, 1951, report the protoc
Senate and recommend that its advice and consent to ratifi
given at an early date.

1. PURPOSE OF THE PROTOCOL

This protocol, when approved by all parties to the North
Treaty, will authorize the United States, on their behalf, to e
invitation to Greece and Turkey to accede to the North
Treaty. The protocol redefines and modifies the descriptio
area to which the North Atlantic Treaty is applicable, thereb
ing the provisions of article 6 to the new situation resulting
proposed accession of Greece and Turkey to the treaty.

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[1] See *A Decade of American Foreign Policy*, pp. 851–853.

[2] See *infra*, pp. 2576–2578.

[3] Elected for the 2-year term, Jan. 1, 1952–Dec. 31, 1953.

[4] S. Exec. Rept. No. 1, 82d Cong., 2d sess.

2. COMMITTEE ACTION

On January 10, 1952, the President requested the advice and consen of the Senate to ratification of the protocol. Five days later, th committee met with Secretary of State Dean Acheson and Gen. Oma N. Bradley, Chairman of the Joint Chiefs of Staff, in executive sessio to consider the matter. Their unclassified statements are printed i the appendix of this report for the convenience of the Senate.[1] At th close of the meeting on January 15, 1952, the committee voted withou a dissent to report the protocol favorably to the Senate.

3. BACKGROUND

Before the Senate gave its advice and consent to the ratification o the North Atlantic Treaty on July 21, 1949, it received the President' assurance delivered by the Secretary of State during the hearings o the treaty that—

> . . . in his judgment the accession of new members to this treaty create in regard to each new member coming in in effect a new treaty between th United States and that nation, and that therefore the President would conside it necessary to ask for the advice and consent of the Senate before himself agreein to the admission of a new member.[2]

Greece and Turkey have for some time desired to become member of the North Atlantic Treaty Organization (NATO). The valuabl contribution that these countries could make to the collective defens of free Europe has long been recognized by the United States. Afte the NATO structure was established, the North Atlantic Treat Council, in September 1950, took steps to associate Greece an Turkey with the appropriate phases of planning work for the defens of the Mediterranean. Although the two countries accepted thi association, it was not deemed sufficient for the maximum contributio and security of both Western Europe and Greece and Turkey.

In the spring of 1951, the Joint Chiefs of Staff agreed that the bes interests of the United States would be served by the accession o Greece and Turkey to the North Atlantic Treaty.

The best way to integrate the defensive strength of these countrie with that of NATO was explored by members of NATO during th spring and summer of 1951. At its meeting in Ottawa, in Septembe 1951, the North Atlantic Treaty Council decided that this should b effected by the accession of Greece and Turkey to the North Atlanti Treaty. This protocol is the implementation of that decision and, i accordance with the President's assurance, it is now before the Senat for its advice and consent.

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[1] Statements of Jan. 15, 1952; *supra*, docs. 9 and 10.

[2] *Hearings Before the Committee on Foreign Relations, United States Senate Eighty-first Congress, First Session, on Executive L, Eighty-first Congress, Firs Session, The North Atlantic Treaty*, part 1, p. 26.

Congressional initiative

The committee wishes to remind the Senate of the long record of congressional expressions urging the integration of Greece and Turkey into the North Atlantic defense community. These began in 1948 when the committee held its hearings on the North Atlantic Treaty. he principal official comments in recent months include the following:

(*a*) Senate Concurrent Resolution 18 (82d Cong., 1st sess.), April 4, 1951:

> 9. It is the sense of the Congress that consideration should be given to the revision of plans for the defense of Europe as soon as possible so as to provide for utilization on a voluntary basis of the military and other resources of Western Germany, Spain, Turkey, and Greece, but not exclusive of the military and other resources of other nations.[1]

(*b*) Report of the Green subcommittee of the Foreign Relations Committee on United States Economic and Military Assistance to Free Europe, August 13, 1951:

> The committee does not feel itself competent to make a definitive recommendation as to the method whereby Greece and Turkey might be brought into a more satisfactory working relationship with the North Atlantic group. It does believe however, that there should be no delay in moving, either through the pact organization or by means of a Mediterranean pact, to bring Greece and Turkey fully into plans for an integrated defense, not only of the Mediterranean area, but also of the European area. Until such time as there is a clear understanding of the part Greece and Turkey should play in the event of aggression, the defenses of the free world are incomplete. [2]

(*c*) Report on Mutual Security Act of 1951, August 17, 1951:

> The joint committee takes this opportunity to endorse the comment of the Green subcommittee with respect to the desirability of integrating the defense plans of Greece and Turkey with plans for the defense of Europe. The subcommittee reported as follows:
>
> "The subcommittee was concerned that neither Greece nor Turkey has yet been fully integrated into European plans for the defense of Europe. Both of those nations desire to become full-fledged partners in the North Atlantic Treaty and their membership would undoubtedly increase the combined defensive strength of the member states. At the same time, of course, their admission to membership would increase the obligations of each of the other members.
>
> "The committee does not feel itself competent to make a definitive recommendation as to the method whereby Greece and Turkey might be brought into a more satisfactory working relationship with the North Atlantic group. It does believe, however, that there should be no delay in moving, either through the pact organization or by means of a Mediterranean pact, to bring Greece and Turkey fully into plans for an integrated defense, not only of the Mediterranean area, but also of the European area. Until such time as there is a clear understanding of the part Greece and Turkey should play in the event of aggression the defenses of the free world are incomplete."[3]

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[1] *Infra*, pp. 1526–1528.

[2] S. Doc. No. 56, 82d Cong., 1st sess., p. 20.

[3] S. Rept. No. 703, 82d Cong., 1st sess., pp. 22–23.

Not only was congressional interest largely responsible for the United States initiative in pressing for the admission of Greece and Turkey to NATO, but the Senate, through the Foreign Relations Committee, was consulted before the North Atlantic Council at its Ottawa meeting agreed to this step. Assistant Secretaries of State George W. Perkins and George C. McGhee appeared before the Foreign Relations Consultative Subcommittee on Europe[1] on September 6, 1951, to discuss this matter. The full committee informally considered the problem further on September 17, and the United States pushed forward with the proposal at the Ottawa meeting.

5. PROVISIONS OF THE PROTOCOL

The protocol is clear and simple. Article I provides that when al present signatories to the treaty have notified the United States o their acceptance of the protocol, the United States shall invite Greec and Turkey to accede to the North Atlantic Treaty as modified b article II of the protocol. The treaty will become operative fo Greece and Turkey on the day that they deposit their instrument o accession with the United States.

Article II of the protocol amends article 6 of the North Atlanti Treaty which defines the area to which the treaty applies, in thre important respects: (1) Turkey is added to the North Atlantic Treat area, as defined in article 6 of the treaty. Since a part of Turkey i in Asia it was necessary to change the description in article 6 whic had been confined to Europe and North America. (2) The Easter Mediterranean Sea is also added to the area. The obligations of th treaty apply, however, only so far as forces, vessels and aircraft o the contracting parties in that area are concerned. According to th testimony of the Secretary of State, this change was necessary because previous interpretation of the area, given to the Senate durin the North Atlantic Treaty hearings, restricted the area to the wester Mediterranean.[2] Since Greece and Turkey are located on the easter Mediterranean, it was necessary to redefine the area and eliminat any doubt as to the area covered. (3) The last change in article 6 makes it clear that if in the future the occupation forces in Europe o any of the parties cease to be occupation forces (as in Germany Austria, or Trieste, for example), but still remain on European soil the North Atlantic Treaty will still be operative in the event they should be attacked. This amendment of article 6 at this time wil make an amendment to the treaty unnecessary in the event of a agreement with any occupied country which might end the occupatio but permit United States troops to remain stationed there.

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[1] The Consultative Subcommittee on Europe was made up of the following fou Senators: J. W. Fulbright, Tom Connally, Alexander Wiley, and Henry Cabo Lodge, Jr.

[2] See Secretary Acheson's statement of Apr. 27, 1949; *Hearings Before th Committee on Foreign Relations, United States Senate, Eighty-first Congress, Firs Session, on Executive L, Eighty-first Congress, First Session, The North Atlanti Treaty*, part 1, pp. 59, 60.

> For the purpose of Article 5 an armed attack on one or more of the Parties s deemed to include an armed attack (*i*) on the territory of any of the Parties n Europe or North America, on the Algerian departments of France, *on the erritory of Turkey,* ~~on the occupation forces of any Party in Europe,~~ *or* on the islands under the jurisdiction of ~~any Party~~ *any of the Parties* in the North Atlantic area north of the Tropic of Cancer ~~or on the vessels or aircraft in this area of any of the Parties~~ (*ii*) *on the forces, vessels or aircraft of any of the Parties, when in o over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer.*

Article III provides that the protocol shall enter into force when al the signatories to the North Atlantic Treaty have notified the Unite States of their acceptance.

During hearings on the protocol the question was raised as t whether an attack on British forces in Egypt would bring the Nort Atlantic Treaty into operation. The exchange between Senator Gillette and Hickenlooper and Secretary Acheson was as follows:

> Senator GILLETTE. Then would the Suez area be considered as covered if ther s an attack on the forces which have been stationed there from the period tha is covered in your language here?
>
> Secretary ACHESON. This refers to occupation forces in Europe. Any force ere [pointing to Egypt and the Suez Canal on the map] would not be occupatio forces and would not be in Europe.
>
> Senator GILLETTE. That is a definite construction.
>
> Secretary ACHESON. Yes.
>
> Senator HICKENLOOPER. Any forces, any British forces or other forces, guarding the Suez Canal would not be considered occupation forces, and an invasio or attack on them would not invoke the treaty.
>
> Secretary ACHESON. It would not invoke the treaty. They are not occupatio forces and not in Europe.

The question then arose as to whether an attack on British force off the Egyptian coast would be an attack "on the forces, vessels, o aircraft of any of the parties . . ." in the "Mediterranean Sea." The Secretary of State in response indicated that the interpretatio which the committee gave to article 6 in its report on the North Atlanti Treaty in 1948 [1949],[1] would be applicable. That report stated:

> In view of the purpose of the treaty to deter armed attack, the area covered b the treaty was deliberately described in general terms rather than defined by line on a map. The committee agrees that this general description is preferable, fo it would seem inconsistent with the spirit of the treaty to provide that article would come into operation in the event of an attack, for example, upon ships o aircraft at a given point but not if the attack occurred a few miles away. I there should be any doubt as to whether or not an armed attack has taken plac within the area specified in the treaty, each party would decide for itself, in th light of the facts surrounding the particular situation and the significance of th attack.

6. NEW COMMITMENT FOR THE UNITED STATES

The only new commitment undertaken by the United States unde this protocol is contained in the extension of the area in which a be considered an armed attack against them all. This area is now increased by the addition of Greece and Turkey, and the forces, vessels, and aircraft of the parties in the Eastern Mediterranean.

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[1] *Supra*, pp. 837–838.

The committee, in its report on the North Atlantic Treaty, already has stated that—

> the word "area" is intended to cover the general region, rather than merely the North Atlantic Ocean in a narrow sense . . .

The importance of Greece and Turkey to the security of the free world was recognized almost 5 years ago. On March 12, 1947, President Truman told the Congress that—

> It is necessary only to glance at a map to realize that the survival and integrity of the Greek nation are of grave importance in a much wider situation. If Greece should fall under the control of an armed minority, the effect upon its neighbor, Turkey, would be immediate and serious. Confusion and disorder might well spread through the entire Middle East.[1]

The Congress underlined the United States interest in the continued freedom and welfare of Greece and Turkey by authorizing and appropriating funds on various occasions for military and economic aid for these two countries. In fact, the first military assistance program enacted was for that area. These amounts are set forth in the table below.

The committee believes that our new commitment to assist Greece and Turkey, if an armed attack against them occurs, by such action as we deem necessary, is a logical step in view of our continuing profound concern about the stability and territorial integrity of the Eastern Mediterranean area.

7. MILITARY AND ECONOMIC AID TO GREECE AND TURKEY

Illustrative of the importance which the United States has attached to Greece and Turkey is the following table showing the amounts authorized and appropriated for military and economic aid to the two countries since the war:

UNITED STATES POSTWAR AID TO GREECE AND TURKEY THROUGH FISCAL YEAR 1951

Aid appropriated under authority of Public Law 75, 80th Cong., and succeeding legislation	[1] $1, 205, 870, 000
UNRRA [2] aid to Greece (United States share)	312, 000, 000
ECA [3] assistance	1, 096, 000, 000
Other economic aid (Export-Import Bank, surplus property credits, etc.)	[4] 139, 500, 000
Total	2, 753, 370, 000

[1] Includes small amounts of military aid to Iran (fiscal years 1951 and 1952). [Footnote in original.]
[2] United Nations Relief and Rehabilitation Administration. [Footnote in original.]
[3] Economic Cooperation Administration. [Footnote in original.]
[4] Does not include International Bank loans to Turkey of $25,400,000. [Footnote in original.]

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[1] For the full text of the President's message, see *A Decade of American Foreign Policy*, pp. 1253–1257.

PROJECTED MILITARY AND ECONOMIC AID TO GE
TURKEY FOR FISCAL YEAR 1952

Public Law 165, 82d Cong.:
  Military aid authorized under title II------------------ 1
  Economic aid authorized under title I:
    Greece--
    Turkey--

[1] Includes small amounts of military aid to Iran (fiscal years 1951 and 1952). [Footno
[2] Final figure under consideration. [Footnote in original.]

8. CONTRIBUTIONS OF GREECE AND TU

In return for the pledge of assistance in case of attack
States gains two strong and courageous partners in NA
and Turkey have for many years demonstrated their d
to survive as free nations. They have both withstood
internal Communist aggression and external Soviet thr
opposition to communism has been proven by deeds, not m
The Communist Party is outlawed in both nations. B
Greece and Turkey were among the first to respond to
Nations appeal for troops to fight aggression in Korea.
cent record of their forces there has won praise and resp
highest military authorities. Their will and courage to d
selves against aggression is unquestionable.

Because Greece and Turkey have lived under the fear
for many years, they have found it essential to their su
velop their defensive strength. The United States has
help. As the result partly of our aid, they have sub
relatively well-equipped and well-trained defensive mil
Each country is devoting about 40 percent of its nation
defense. The availability of this military strength for
of free Europe greatly enhances the defensive capacity o

The committee was impressed with the strategic im
this area. Greece and Turkey lie athwart one of the
west trade routes. Both countries have common b
Russia or her satellites. Their location and strength m
powerful deterrent to any aggression against southern
Middle East or North Africa, since between them they
the overland route and the sea route by which any suc
might be launched. Turkey, in addition, flanks the lan
the north to the important oil fields of the Middle East.
the southeastern flank of General Eisenhower's NATO
anchored in the central Mediterranean, will be bolst
defensive bulwark to the east which Greece and Turke

Important benefits also will accrue to Greece and Tur
their accession to the North Atlantic Treaty, since in th
are attacked, they will not stand alone but will have
strength of the North Atlantic Treaty behind them.

The committee was impressed with the many compelling reasons for inviting Greece and Turkey to accede to the North Atlantic Treaty.

1. The protection of their territory will serve to insure the benefits which our economic and military aid has brought these countries.
2. Their accession will also add to the security of the Eastern Mediterranean and the Middle East, which are strategically important to the defense of the free world.
3. The southeastern flank of General Eisenhower's NATO army will be greatly strengthened.
4. Greece and Turkey have sizable forces in a good state of readiness and of tested valor.
5. The two nations have been strengthening their democratic institutions and have actively cooperated with the West for many years.
6. They are devoted to the cause of peace and collective security.

These factors have led the committee to conclude that the admission of Greece and Turkey to NATO will increase the strength and security of the North Atlantic area. Such a step, the committee believes, will be in the national interest of the United States. The committee, therefore, urges the Senate to take prompt and favorable action on the present protocol, so that the way may be cleared for the accession of Greece and Turkey at the earliest possible moment.

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12. PROTOCOL TO THE NORTH ATLANTIC TREATY ON THE ACCESSION OF THE FEDERAL REPUBLIC OF GERMANY, OCTOBER 23, 1954 [1]

The Parties to the North Atlantic Treaty signed at Washington on 4th April, 1949,

Being satisfied that the security of the North Atlantic area will be enhanced by the accession of the Federal Republic of Germany to that Treaty, and

Having noted that the Federal Republic of Germany has by a declaration dated 3rd October, 1954,[2] accepted the obligations set forth in Article 2 of the Charter of the United Nations and has undertaken upon its accession to the North Atlantic Treaty to refrain

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[1] TIAS 3428; 6 UST, pt. 5, p. 5707. Ratification advised by the Senate, Apr 1, 1955; ratified by the President, Apr. 7, 1955; entered into force, May 5, 1955 For the texts of the report of the Secretary of State to the President and the report of the Senate Foreign Relations Committee on this protocol, see *supra* pp. 613–623 and 627–643.

[2] See Part V of the Final Act of the London Conference, Oct. 3, 1954; *infra* p. 1481.

Having further noted that all member governments have
themselves[1] with the declaration also made on 3rd Octo
by the Governments of the United States of America, t
Kingdom of Great Britain and Northern Ireland and t
Republic in connection with the aforesaid declaration of t
Republic of Germany,

Agree as follows:

Article I

Upon the entry into force of the present Protocol, the G
of the United States of America shall on behalf of all t
communicate to the Government of the Federal Republic o
an invitation to accede to the North Atlantic Treaty.
the Federal Republic of Germany shall become a Party to t
on the date when it deposits its instruments of accessio
Government of the United States of America in accord
Article 10 of that Treaty.[3]

Article II

The present Protocol shall enter into force, when (a) e
Parties to the North Atlantic Treaty has notified to the G
of the United States of America its acceptance thereof,[4]
struments of ratification of the Protocol Modifying and C
the Brussels Treaty[5] have been deposited with the Belgia
ment, and (c) all instruments of ratification or approval o
vention on the Presence of Foreign Forces in the Federal F
Germany[6] have been deposited with the Government of t
Republic of Germany. The Government of the United
America shall inform the other Parties to the North Atla
of the date of the receipt of each notification of accepta
present Protocol and of the date of the entry into force of t
Protocol.

Article III

The present Protocol, of which the English and Frenc
equally authentic, shall be deposited in the archives of t

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[1] By a resolution dated Oct. 22, 1954; *London and Paris Agreement*
October 1954 (Department of State publication 5659; 1954), p. 36.

[2] See Part V of the Final Act of the London Conference, Oct. 3,
pp. 1481–1483.

[3] The Federal Republic of Germany deposited its instrument of
the North Atlantic Treaty May 6, 1955.

[4] The member countries of NATO deposited their notifications o
of this protocol on the dates indicated, in the following order: Tur
1955; Iceland, Mar. 16, 1955; Greece, Apr. 18, 1955; Norway, A
Italy, Apr. 20, 1955; the United States, Apr. 20, 1955; Belgium, A
Denmark, Apr. 23, 1955; Portugal, Apr. 26, 1955; Canada, Apr. 2
Netherlands, Apr. 30, 1955; Luxembourg, May 3, 1955; France, M
and the United Kingdom, May 5, 1955.

[5] *Infra*, pp. 972–976.

[6] *Supra*, pp. 610–612.

ansmitted by that Government to the Governments of the
ties to the North Atlantic Treaty.
ess whereof, the undersigned Representatives, duly author-
to by their respective Governments, have signed the present

at Paris the twenty-third day of October nineteen hundred
four.

. . . . . .

Defense Treaty Between the United States and the Republic of the Philippines

13. TEXT OF TREATY, AUGUST 30, 1951 [1]

rties to this Treaty,
ning their faith in the purposes and principles of the Char-
United Nations and their desire to live in peace with all
nd all Governments, and desiring to strengthen the fabric of
he Pacific Area,
ng with mutual pride the historic relationship which brought
peoples together in a common bond of sympathy and mutual
fight side-by-side against imperialist aggression during the

g to declare publicly and formally their sense of unity and
mon determination to defend themselves against external
ack, so that no potential aggressor could be under the illu-
ither of them stands alone in the Pacific Area,
g further to strengthen their present efforts for collective
r the preservation of peace and security pending the de-
t of a more comprehensive system of regional security in
c Area,
g that nothing in this present instrument shall be consid-
terpreted as in any way or sense altering or diminishing any
greements or understandings between the United States of
nd the Republic of the Philippines,
greed as follows:

ARTICLE I

rties undertake, as set forth in the Charter of the United
to settle any international disputes in which they may be
y peaceful means in such a manner that international peace

2529; 3 UST 3947–3952. Ratification advised by the Senate, Mar.
atified by the President, Apr. 15, 1952; entered into force, Aug. 27,

international relations from the threat or use of force in a
inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objective of this
Parties separately and jointly by self-help and mutual aid
tain and develop their individual and collective capacit
armed attack.

ARTICLE III

The Parties, through their Foreign Ministers or their de
consult together from time to time regarding the impleme
this Treaty and whenever in the opinion of either of them
torial integrity, political independence or security of eit
Parties is threatened by external armed attack in the Pac

ARTICLE IV

Each Party recognizes that an armed attack in the P
on either of the Parties would be dangerous to its own
safety and declares that it would act to meet the comm
in accordance with its constitutional processes.

Any such armed attack and all measures taken as a res
shall be immediately reported to the Security Council of
Nations. Such measures shall be terminated when the Secu
cil has taken the measures necessary to restore and main
national peace and security.

ARTICLE V

For the purpose of Article IV, an armed attack on eit
Parties is deemed to include an armed attack on the m
territory of either of the Parties, or on the island territ
its jurisdiction in the Pacific or on its armed forces, pu
or aircraft in the Pacific.

ARTICLE VI

This Treaty does not affect and shall not be interpreted
in any way the rights and obligations of the Parties
Charter of the United Nations or the responsibility of
Nations for the maintenance of international peace and se

ARTICLE VII

This Treaty shall be ratified by the United States of A
the Republic of the Philippines in accordance with their
constitutional processes and will come into force when i
of ratification thereof have been exchanged by them at M

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[1] Instruments of ratification were exchanged Aug. 27, 1952.

ARTICLE VIII

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington this thirtieth day of August 1951

. . . .

14. STATEMENT TRANSMITTED TO THE SECRETARY OF STATE BY THE SPECIAL REPRESENTATIVE OF THE PRESIDENT,[1] JANUARY 7, 1952 (Excerpt)[2]

The mutual defense treaty between the United States and the Republic of the Philippines translates into dignified and mutual form a relationship of interdependence which already exists. As such, it marks a new milestone in the relation of the free West and the free East.

The historical relationship between the United States and the Philippines, and their common struggle in the Second World War are themselves sufficient to assure that, as President Truman said in his public declaration of April 18, 1951—

> the whole world knows that the United States recognizes that an armed attack on the Philippines would be looked upon by the United States as dangerous to its own peace and safety and that it would act accordingly.[3]

Furthermore, there already existed an agreement, March 14, 1947 with the Philippines,[4] granting the United States certain military rights and facilities in the Philippines, so that an armed attack upon the Philippines would almost automatically involve an attack upon the armed forces of the United States.

However, the geographical position of the Philippines in the Western Pacific and its fully sovereign status made it desirable that the Philippines should be a full and equal partner in any postwar arrangement for peace and security in this area.

This possibility was discussed in a general way by Mr. Dulles and other members of his mission with the President of the Republic of the Philippines and other leading personalities of the Republic during mid-February 1951;[5] and, after plans were further developed in the light of subsequent discussions in Australia and New Zealand, the United States formally proposed to the Republic of the Philippines same lines as were being considered in relation to Australia and Nev Zealand. This proposal was promptly accepted by the Republic o the Philippines. The negotiations were brief because of the understanding and community of interest which already existed and th treaty itself was formally signed the same month in the presence o the President of the United States and the President of the Republi of the Philippines.[1]

The putting of our relations with the Philippines on a treaty basi of sovereign equality was strongly urged by members of the Senat Foreign Relations Committee and the House Foreign Affairs Committee, who were particularly active and helpful in this connection

Since the substance of the mutual defense treaty follows closel that of the Australia-New Zealand-United States treaty, its terms require no comment here beyond that contained in annex 3 [2] in relatio to the comparable articles of the other treaty.

It was understood that this treaty was part and parcel of the Japanese peace settlement and the related treaty program for creatin peace and security in the Western Pacific area and presupposed th ratification of the Japanese Peace Treaty by the United States an the Republic of the Philippines.[3]

The members of the United States delegation to conclude the Philippine Mutual Defense Treaty were the Secretary of State, Mr. Joh Foster Dulles, Senators Tom Connally, Alexander Wiley, John J Sparkman, H. Alexander Smith, Walter F. George, and Bourke E Hickenlooper of the Senate Foreign Relations Committee and Representatives Abraham A. Ribicoff and Walter H. Judd of the Hous Foreign Affairs Committee.

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15. REPORT OF THE SENATE COMMITTEE ON FOREIG RELATIONS, FEBRUARY 14, 1952 (Excerpt) [4]

The deep interest of the United States in the welfare and securit of the Philippines dates back to the Spanish-American War. Following World War II, relations between the two Governments wer formally established in a series of important agreements. These included the Treaty of General Relations, signed on July 4, 1946, whic recognized the independence of the Philippines,[5] and the two agreements of 1947 relating to military assistance and the use of certai bases in the islands.[6]

On April 18, 1951, President Truman, in a public statement underlined the importance which the United States attaches to the security of the Philippines:

> The whole world knows—

stated the President—

> that the United States recognizes that an armed attack on the Philippines would be looked upon by the United States as dangerous to its own peace and safety and that it would act accordingly.[1]

This is the principle which is incorporated in the security treaty between the two Governments and which is now before the Senate. In a sense it can be said that the treaty merely formalizes a relationship that has been in existence for some time.

The committee agrees that, in view of the importance of the Republic of the Philippines in the Far East and its new status as a sovereign state, it would seem highly desirable to include that country on a basis of complete equality in any collective arrangements for peace and security in that area. That is why, during the negotiation of the Japanese Peace Treaty, members of both the Senate Foreign Relations Committee and the House Foreign Affairs Committee agreed with the executive branch that a mutual security pact be concluded with the Philippine Government. On the Senate side, consultations relating to this matter took place between Ambassador Dulles and the Far Eastern Subcommittee of the Foreign Relations Committee.

It will be noted that, in general, the provisions of the treaty with the Philippines follow very closely the terms of the security pact with Australia and New Zealand. Since that agreement has been outlined in section 25 above,[2] it will not be necessary to repeat those comments here. Suffice it to say the two parties agree to settle their disputes by peaceful means (art. I), to develop their capacity to resist armed attack (art. II), to consult if their territorial integrity, political independence or security is threatened in the Pacific (art. III), and to take appropriate action in the event an armed attack is launched against them (art. IV). The treaty does not formally establish a council as does the pact with Australia and New Zealand, although adequate provision is made for consultation between the Foreign Ministers or their deputies.

Article VIII provides that the treaty shall remain in force indefinitely. Either party, however, may terminate it following a 1 year's notice of its intention to do so.

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[1] Department of State *Bulletin*, Apr. 30, 1951, p. 699.

[2] *Infra*, doc. 18.

and New Zealand (ANZUS)

16. TEXT OF TREATY, SEPTEMBER 1, 1951 [1]

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charte of the United Nations and their desire to live in peace with al peoples and all Governments, and desiring to strengthen the fabri of peace in the Pacific Area,

Noting that the United States already has arrangements pursuan to which its armed forces are stationed in the Philippines,[2] and ha armed forces and administrative responsibilities in the Ryukyus, an upon the coming into force of the Japanese Peace Treaty may als station armed forces in and about Japan to assist in the preservatio of peace and security in the Japan Area,[3]

Recognizing that Australia and New Zealand as members of th British Commonwealth of Nations have military obligations outsid as well as within the Pacific Area,

Desiring to declare publicly and formally their sense of unity, s that no potential aggressor could be under the illusion that any o them stand alone in the Pacific Area, and

Desiring further to coordinate their efforts for collective defens for the preservation of peace and security pending the developmen of a more comprehensive system of regional security in the Pacifi Area,

Therefore declare and agree as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the Unite Nations, to settle any international disputes in which they may b involved by peaceful means in such a manner that international peac and security and justice are not endangered and to refrain in thei international relations from the threat or use of force in any manne inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objective of this Treat the Parties separately and jointly by means of continuous and effective self-help and mutual aid will maintain and develop their individua and collective capacity to resist armed attack.

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[1] TIAS 2493; 3 UST 3420–3425. Ratification advised by the Senate, Mar 20, 1952; ratified by the President, Apr. 15, 1952; entered into force, Apr. 29, 1952

[2] *A Decade of American Foreign Policy*, pp. 881–885 and 869–881.

[3] See article 6 of the Japanese peace treaty (*supra*, p. 428) and the securit treaty with Japan (*infra*, doc. 19).

The Parties will consult together whenever in the opinion of any of them the territorial integrity, political independence or security of any of the Parties is threatened in the Pacific.

ARTICLE IV

Each Party recognizes that an armed attack in the Pacific Area on any of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE V

For the purpose of Article IV, an armed attack on any of the Parties is deemed to include an armed attack on the metropolitan territory of any of the Parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

ARTICLE VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE VII

The Parties hereby establish a Council, consisting of their Foreign Ministers or their Deputies, to consider matters concerning the implementation of this Treaty. The Council should be so organized as to be able to meet at any time.

ARTICLE VIII

Pending the development of a more comprehensive system of regional security in the Pacific Area and the development by the United Nations of more effective means to maintain international peace and security, the Council, established by Article VII, is authorized to maintain a consultative relationship with States, Regional Organizations, Associations of States or other authorities in the Pacific Area in a position to further the purposes of this Treaty and to contribute to the security of that Area.

ARTICLE IX

This Treaty shall be ratified by the Parties in accordance with their respective constitutional processes. The instruments of ratification

ralia, which will notify each of the other signatories of such deposi
The Treaty shall enter into force as soon as the ratifications of th
signatories have been deposited.[1]

ARTICLE X

This Treaty shall remain in force indefinitely. Any Party ma cease to be a member of the Council established by Article VII on year after notice has been given to the Government of Australia which will inform the Governments of the other Parties of the deposit of such notice.

ARTICLE XI

This Treaty in the English language shall be deposited in th archives of the Government of Australia. Duly certified copie thereof will be transmitted by that Government to the Government of each of the other signatories.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signe this Treaty.

DONE at the city of San Francisco this first day of September, 1951

. . . .

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17. STATEMENT TRANSMITTED TO THE SECRETARY O STATE BY THE SPECIAL REPRESENTATIVE OF THE PRESIDENT,[2] JANUARY 7, 1952 (Excerpt)[3]

As indicated in annex 2,[4] the United States conceived that th establishment of peace in the Pacific meant not only liquidating th old war but strengthening the fabric of peace as against the threa of new war. Of immediate concern were the Pacific nations whos people had been fellows in arms in World War II, namely, the Philippines, Australia, and New Zealand. These nations, with Japan an the Ryukyus, were links in what is often called the Asian "offshor island chain" which marks the western rim of the Pacific.

In the case of the Philippines there already existed a security ar angement with the United States in the form of a base agreement There existed, however, no formal understanding as between th United States and Australia and New Zealand. The lack of this wa felt the more acutely in Australia and New Zealand because thes countries have military obligations outside as well as within the Pacifi area. Also, these nations felt that a security arrangement with th United States was the normal counterpart of a Japanese Peace Treaty which imposed no restrictions upon Japanese rearmament. It seeme eminently appropriate formally to register a sense of common destin ship had been demonstrated in common sacrifice and effort in two world wars.

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[1] All instruments of ratification were deposited Apr. 29, 1952.

[2] John Foster Dulles.

[3] S. Execs. A, B, C, and D, 82d Cong., 2d sess., pp. 22–24.

[4] *Infra*, doc. 21.

[5] *A Decade of American Foreign Policy*, pp. 869–881.

Mr. Dulles and the State Department members of his mission, which for this purpose now included Mr. Livingston Satterthwaite and Col C. Stanton Babcock of the Department of Defense, visited Australia and New Zealand the latter part of February 1951, and they conducted at Canberra, Australia, 4 days of intensive discussion with the Australian Minister for External Affairs, Mr. P. C. Spender, and the New Zealand Minister for External Affairs, Mr. F. W. Dodge. The result was the drafting at Canberra in February of a proposed security treaty substantially in the form of that which was later signed on September 1, 1951, after detailed consideration by the governments concerned, including, in the case of the United States, the Department of State, the Department of Defense, the Foreign Relations and Armed Services Committees of the Senate, and the Foreign Affairs and Armed Services Committees of the House.

The treaty consists of a preamble which sets forth the reasons for the making of the treaty and eight substantive articles.

Article 4 constitutes the essence of the treaty. Thereby each party—

> recognizes that an armed attack in the Pacific area on any of the Parties would be dangerous to its own peace and safety and each declares that it would act to meet the common danger in accordance with its constitutional processes.

The first-quoted language is drawn from the declaration of President Monroe, which established the Monroe Doctrine,[1] and the existing United States constitutional limitations are fully maintained and respected in relation to any action which might be taken.

Article 5 stipulates that an armed attack on any of the parties includes an armed attack not only on the metropolitan territory of the parties but also on island territories under its jurisdiction in the Pacific or on its armed forces, public vessels, or aircraft in the Pacific That would mean that there would be an "armed attack" on the United States, for the purposes of the treaty, if there were an armed attack on the trust territories—the former Japanese mandated islands—which the United States is administering; or if there were an armed attack on the Ryukyu or Bonin Islands over which the United States was exercising jurisdiction under the Japanese Peace Treaty;[2] or if there were an armed attack upon armed forces which under the United States-Japan Security Treaty,[3] the United States might maintain in and about Japan.

Article 2 of the treaty embodies the language of Senate Resolution 239, Eightieth Congress, the so-called Vandenberg resolution,[4] to the help and mutual aid" develop their capacity to resist armed attack

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[1] See excerpts from President Monroe's message to Congress, Dec. 2, 1823, in *Memorandum on the Monroe Doctrine* (Department of State publication 37 1930), p. x.

[2] Under article 3 of the Japanese peace treaty, *supra*, pp. 426–427.

[3] *Infra*, doc. 19.

[4] Resolution of June 11, 1948; *A Decade of American Foreign Policy*, p 197.

The treaty provides for a consultative relationship through a council. Any party may withdraw from this council on 1 year's notice.

The treaty, as such, like the Monroe Doctrine, has no fixed duratio because the essence of the treaty is recognition of a fact of presumabl indefinite duration, namely, the fact that an armed attack upon on of the parties would be dangerous to the others. If ever this cease to be the fact, then the basis for the treaty would disappear and th treaty itself could be terminated.

It should be noted that the preamble to the treaty provides that i is designed to coordinate the efforts of the parties "pending th development of a more comprehensive system of regional security i the Pacific area." Thus, like the United States-Japan Securit Treaty, evolutionary developments are contemplated.

It is understood by the parties that this treaty is designed as par and parcel of the Japanese peace settlement and the related progra for creating peace and security in the Western Pacific area and presupposed the ratification of the Japanese Peace Treaty by the Unite States, Australia, and New Zealand.[1]

• • •

The members of the United States delegation to conclude the treat were the Secretary of State, Mr. John Foster Dulles, Senators To Connally, Alexander Wiley, John J. Sparkman, H. Alexander Smith Walter F. George, and Bourke B. Hickenlooper of the Senate Foreig Relations Committee, and Representatives Abraham A. Ribicoff an Walter H. Judd of the House Foreign Affairs Committee.

18. REPORT OF THE SENATE COMMITTEE ON FOREIG RELATIONS, FEBRUARY 14, 1952 (Excerpt)[2]

Background

As has been pointed out above,[3] one of the main objectives of th United States in the postwar era has been to strengthen the fabric o peace in the Far East and elsewhere, so as to minimize the possibilit of a third world war. In Asia we have considered it essential to th cause of the free world that those ocean countries marking the wester rim of the Pacific should remain free and independent. Consequentl as an integral part of the peace settlement in the Far East, and i addition to the security treaty with Japan, our Government proceede to negotiate security pacts with Australia and New Zealand, and wit the Philippines.

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[1] These three countries deposited their instruments of ratification of the Japanese peace treaty Apr. 28, 1952 (the United States) and Apr. 10, 1952 (Australi and New Zealand), respectively.

[2] S. Exec. Rept. No. 2, 82d Cong., 2d sess., pp. 22–25.

[3] In the Senate Committee's report on the Security Treaty with Japan, *infra* doc. 22.

The desire of Australia and New Zealand to establish some sort of security relationship with the United States is understandable. As a result of World War II, these countries feared the resurgence of Japanese aggression, and they were deeply concerned about the possibility of Japanese rearmament. Their natural inclination, therefore, was to think in terms of a peace treaty that would make such eventualities impossible. They could agree to a generous treaty, imposing no restrictions upon Japanese rearmament, only if the United States would formally express concern for their security and agree to stand with them in the event of an attack. The security treaty between the United States on the one hand, and Australia and New Zealand on the other, gave these countries the assurances they needed, and at the same time served the national interests of the United States.

Provisions of the treaty

Like the Rio Pact [1] and the [North] Atlantic Pact,[2] the security treaty with Australia and New Zealand provides for consultation and, when necessary, appropriate action. Article III calls for consultation among the three parties whenever the territorial integrity, the political independence, or the security of any of them is threatened in the Pacific. Under this article there is no obligation to take any action as a result of the consultation contemplated.

Article IV is the heart of the treaty. Under that article each of the signatories recognizes that—

> an armed attack in the Pacific area on either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common dangers in accordance with its constitutional processes.

The committee noted that the language of article IV, which is based upon the language of the Monroe Doctrine, is more general than the specific commitments contained in the Atlantic Pact. It is believed, however, that the formula which worked so well for so many years in the Americas will serve to meet the security situation which we now confront with respect to New Zealand and Australia in the Pacific.

In view of the general language of article IV, the question naturally arises as to the type of action contemplated in the event an armed attack should occur. This problem was raised with Ambassador Dulles during the course of the hearings. He replied that each country would have to decide that question—

> in the light of the fact that there is recognition that it is a common danger, and that each will act in accordance with its constitutional processes to meet that

There is, of course, a whole range of defensive measures which might be appropriate depending upon the circumstances. Just what might be done is something that will no doubt be considered by the Council that is to be set up under article VII of the treaty, or by the consultations that would normally take place under article III. In any event, any action in which the United States joined would have to be taken n accordance with our constitutional processes.

Article V defines, in a geographic sense, the area within which the treaty is to operate. By the terms of that article an armed attack on any of the parties includes not only an attack upon the metropolitan territory of the party but also on the Pacific island territories under its jurisdiction or on its armed forces, public vessels, or aircraft in the Pacific. So far as United States interests are concerned, this is an exceptionally broad provision. It would mean, for example, that Australia and New Zealand would be obligated to take appropriate action under article IV if an armed attack were launched against our occupation forces in Japan. Likewise, an armed attack against the former Japanese mandated islands which we are now administering—the Marshalls, the Marianas, and the Carolines—or an attack upon the Ryukyu or Bonin Islands over which we will be exercising jurisdiction under the Japanese Peace Treaty,[1] would be considered an armed attack against the United States and would bring the security treaty into play.

It is not contemplated that any elaborate international machinery will be set up as a result of the treaty. Under article VII the parties establish a Council, which consists of their Foreign Ministers or their deputies, to consider problems relating to the implementation of the treaty. While the Council will be organized so as to be able to mee at any time, it is not expected that the Council will find it necessary to convene often unless an emergency should arise.

The committee paid particular attention to the language of article VIII. The words "Pending the development of a more comprehensive system of regional security in the Pacific area" leave the implication hat the treaty with Australia and New Zealand, and the other security treaties, are but the first step in the creation of a more ffective security system for the Pacific. Representatives of the xecutive branch expressed the conviction that there should be a further evolution in that area although there are at present no plans for the negotiation of a regional arrangement in the Pacific comparable to the Atlantic Pact or the Rio Treaty. At the moment it seems impractical to go beyond what is now being proposed, particularly in view of the reluctance of certain states to enter into a regional security pact.

According to the terms of article X the treaty is to remain in force interests of the United States by making clear our mutual interests and our sense of common destiny with our allies in the Pacific. It seems highly desirable that our friends as well as our enemies understand that our concern over such matters as the North Atlantic Pact and the Japanese Peace Treaty in no way implies any lack of interest on our part in working together for peace with such valuable allies as New Zealand, Australia, and the Philippines.

Security Treaty Between the United States and Japan

19. TEXT OF TREATY, SEPTEMBER 8, 1951 [1]

Japan has this day signed a Treaty of Peace with the Allied Powers.[2] On the coming into force of that Treaty, Japan will not have the effective means to exercise its inherent right of self-defense because it has been disarmed.

There is danger to Japan in this situation because irresponsible militarism has not yet been driven from the world. Therefore Japan desires a Security Treaty with the United States of America to come into force simultaneously with the Treaty of Peace between the United States of America and Japan.

The Treaty of Peace recognizes that Japan as a sovereign nation has the right to enter into collective security arrangements, and further, the Charter of the United Nations recognizes that all nations possess an inherent right of individual and collective self-defense.

In exercise of these rights, Japan desires, as a provisional arrangement for its defense, that the United States of America should maintain armed forces of its own in and about Japan so as to deter armed attack upon Japan.

The United States of America, in the interest of peace and security, is presently willing to maintain certain of its armed forces in and about Japan, in the expectation, however, that Japan will itself increasingly assume responsibility for its own defense against direct and indirect aggression, always avoiding any armament which could be an offensive threat or serve other than to promote peace and security in accordance with the purposes and principles of the United Nations Charter.

Accordingly, the two countries have agreed as follows:

Such forces may be utilized to contribute to the maintenance of international peace and security in the Far East and to the security of Japan against armed attack from without, including assistance given at the express request of the Japanese Government to put down large-scale internal riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

ARTICLE II

During the exercise of the right referred to in Article I, Japan will not grant, without the prior consent of the United States of America any bases or any rights, powers or authority whatsoever, in or relating to bases or the right of garrison or of maneuver, or transit of ground, air or naval forces to any third power.

ARTICLE III

The conditions which shall govern the disposition of armed forces of the United States of America in and about Japan shall be determined by administrative agreements between the two Governments.

ARTICLE IV

This Treaty shall expire whenever in the opinion of the Governments of the United States of America and Japan there shall have come into force such United Nations arrangements or such alternative individual or collective security dispositions as will satisfactorily provide for the maintenance by the United Nations or otherwise of international peace and security in the Japan Area.

ARTICLE V

This Treaty shall be ratified by the United States of America and Japan and will come into force when instruments of ratification thereof have been exchanged by them at Washington.[2]

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate at the city of San Francisco, in the English and Japanese languages, this eighth day of September, 1951.

. . . .

20. STATEMENT BY THE SECRETARY OF STATE AT THE SIGNING CEREMONY, SEPTEMBER 8, 1951 [3]

With regard to the Security Treaty we are gathered here to sign there are several points I should like to emphasize:

First, this treaty of security between the United States and Japan is part of a pattern for defense of peace in the Pacific area. Taken

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[1] See *infra*, pp. 2406–2423.

[2] Instruments of ratification were exchanged Apr. 28, 1952.

[3] Department of State *Bulletin*, Sept. 17, 1951,

together with the Mutual Defense Treaty between the United States and the Philippines,[1] the Tripartite Security Pact between Australia, New Zealand, and the United States,[2] and the Japanese peace treaty which we signed this morning,[3] this action adds another link in the chain of security against aggression in a most important part of the world. These treaties constitute, in the words of President Truman, natural "initial steps in [toward] the consolidation of peace" in the Pacific area.[4]

The signing of this Security Treaty today marks the conclusion of 10 days of historic importance to free peoples all over the world.

Second, the present treaty takes its place as a part—and an important part—of the system of security which has been developed within the framework of the United Nations Charter. The treaty is not only conceived within the spirit of the charter; it is a fulfillment of the inherent right of individual and collective self-defense which the charter recognizes as belonging to all sovereign nations.

Third, this Security Treaty is a voluntary arrangement between free peoples. It stems from a freely reached decision on the part of the Japanese Government and the Japanese people to seek protection for an unarmed Japan against the threat of aggression.

Fourth, there should be no misunderstanding of the purpose of this Security Treaty. Its purpose is peace. In a world in which aggression and the threat of aggression are rampant, the maintenance of peace and security requires us to take affirmative steps to bulwark freedom with military strength. Weakness is an invitation to aggression, both external and internal. We are here providing for the defensive strength without which peace would be jeopardized. In building this strength, the present treaty does not create a threat of further aggression. Of importance to all Japan's neighbors in the Pacific is the principle recognized in this treaty that Japan shall avoid any armament which could be an offensive threat or serve other than to promote peace and security in accordance with the purposes and principles of the United Nations Charter.

Fifth, the defense arrangements provided for under this treaty will constitute a shield to protect the progress being made by the Japanese people toward better conditions of life. It will give the Japanese people the opportunity to continue their constructive work of building the new peaceful Japan, free from the paralyzing threat of aggression.

Finally, this treaty expresses the mutual trust and confidence which has been growing between Japan and the United States over the past 6 years. In this time, the people of Japan have had reason to be assured as to the purposes of the United States. And we, in turn, have come to the conviction that the Japanese people want no more ake its contribution to the collective defense of the free world.

It is with these thoughts in mind that we welcome the opportunity to sign this Security Treaty on behalf of the Government of the United States.

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21. STATEMENT TRANSMITTED TO THE SECRETARY OF STATE BY THE SPECIAL REPRESENTATIVE OF THE PRESIDENT,[1] JANUARY 7, 1952 (Excerpts)[2]

In June 1950 the United States was faced by a dual problem, namely (1) bringing to Japan a peace which would end the 9-year-old war and the resultant occupation, then approaching its fifth year, and (2) doing so on terms which would avoid Japan's becoming a vacuum of power into which the nearby aggressive power of Soviet communism would move.

This dual problem was thoroughly discussed at Tokyo in June 1950 by Secretary of Defense Johnson, General MacArthur, General Bradley, Chairman of the Joint Chiefs of Staff, and Mr. John Foster Dulles.

At these conferences General MacArthur emphasized the following basic points:

> 1. Historically, military occupations have a maximum utility of from 3 to 5 years. Thereafter the occupation assumes the character of "colonialism," the occupation forces assume the complexion of entrenched power, and the people under occupation become restive. In the case of Japan, there would be danger that bitterness and resentment would dominate the Japanese mind.
>
> 2. The Japanese people had faithfully fulfilled the obligations they assumed under the instrument of surrender[3] and had every moral and legal right to the restoration of peace.
>
> 3. The Japanese people, in the exercise of their sovereignty would presumably welcome the maintenance by the United States of security forces in Japan, since Japan was itself unarmed and since irresponsible militarism existed in close proximity to Japan.
>
> 4. The consummation of a peace and security program as suggested would meet the most impelling need of the moment in the Japan area, namely, the regaining of initiative, without which there would be a progressive deterioration in our position which if long enough extended, would inevitably confront us with a situation of general hostility. The Soviet Union, General MacArthur pointed out, might seize the initiative for peace in which event the position of the United States would become virtually irretrievable.

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[1] John Foster Dulles.

[2] S. Execs. A, B, C, and D, 82d Cong., 2d sess., pp. 17–22.

[3] Instrument of Surrender of Sept. 2, 1945; *A Decade of American Foreign Policy*, pp. 625–626.

Dulles were still continuing there occurred the armed attack of Communist forces on the Republic of Korea. This attack seemed to have, as its ultimate objective, the encirclement of Japan by Soviet powe and an increased Soviet opportunity to subject Japan to its dominatio and eventual exploitation for aggression.

Following the return to Washington of the Secretary of Defense General Bradley, and Mr. Dulles, the problem was further discusse between the Department of State and the Department of Defense wit the result that on September 8, 1950, the President instructed that th United States should proceed to explore the possibility of a Japanes peace settlement which would include security provisions of the general character suggested by General MacArthur. The primary responsibility of negotiation in this matter was placed in the hands o Mr. Dulles.

In consultation with the Departments of State and Defense, Mr Dulles prepared a seven-point statement of general principles, a cop of which is appended hereto,[1] which contemplated, among othe things, that—

> pending satisfactory alternative security arrangements, such as United Nation assumption of effective responsibility, there would be continuing cooperativ responsibility between Japanese facilities and United States and perhaps othe forces for the maintenance of international peace and security in the Japan area

At the time of the United Nations General Assembly in New York these 7 principles were discussed with representatives of the 12 othe nations which were members of the Far Eastern Commission [2] (including the Nationalist Government of China) and also with Indonesi and Ceylon, nations which were not members of the Far Easter Commission because they did not have independent status at the tim of the formation of the Far Eastern Commission, but which wer applicants for membership and regarded as qualified for membership The principles were also discussed with representatives of the Republic of Korea, a former Japanese colony which, in independence was deeply concerned.

The Soviet Union registered strong objection, particularly to th security principle above referred to and some reservation was indicated by the Government of India. There was, however, a larg measure of acceptance of the seven principles and, in the light of that Mr. Dulles was formally designated by the President on January 10 1951, as his special representative for the purpose of conducting th negotiations necessary to conclude a peace settlement with Japan an related security arrangements with Japan and other Pacific countries.[3] The purpose was not merely to end the war by a prompt and jus peace but, to use General MacArthur's phrase, "to gain an indispen strengthen the fabric of peace in the Pacific by security arr with Japan and other Pacific countries, such as the P Australia, and New Zealand, which were part of the Asi island position in the West Pacific.

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[1] *Supra,* pp. 450–451.

[2] Australia, Burma, Canada, China, France, India, the Netherlands, Ne Zealand, Pakistan, the Philippines, the United Kingdom, and the U.S.S.R For a complete study of the Far Eastern Commission, see *The Far Eastern Commission, 1945 to 1952* (Department of State publication 5138; 1953).

[3] See announcement of Jan. 11, 1951; Department of State *Bulletin,* Jan. 29 1951, p. 185.

In January 1951, Mr. Dulles, representing the Preside panied by Mr. John M. Allison and Mr. Robert Fearey partment of State, Mr. Earl D. Johnson, Assistant Secret Army, Maj. Gen. Carter B. Magruder, and Col. C. Stanto representing the Department of Defense, and John D. Rock as an educational and cultural adviser, went to Japan mission.

On February 2, 1951, with the approval of the President, made a public address in Tokyo,[1] in which he pointed out t nese the dangers of remaining unprotected under the distu tions now existing in the world, emphasized Japanese re for their own protection—particularly against indirect ag the subversive type—and pointed out the advantages o security. At the same time he stated that if the Japanes the United States would "sympathetically consider" statio of its armed forces in and about Japan to assist in Japa He emphasized that the arrangement must be entirely volu ing:

> That [stationing of United States forces] is not a choice which States is going to impose upon Japan. It is an invitation. The U is not interested in slavish conduct . . . We are concerned only wi and the free. The choice must be Japan's own choice.

Reaction in Japan was highly favorable to this suggesti Minister Yoshida, in a public statement on February 11,

> The Japanese Government and a preponderant majority of the Ja warmly welcome the Ambassador's invitation to a security arran the United States for the protection of unarmed Japan by the station States armed forces in and about the country. We realize fully ou ity to protect ourselves and defend our own land, and do what w respect. When we recover our independence and join the councils o as an equal member, the substance and scope of the Japanese con be determined according to the extent of our economic and indust

Early in the discussions with the Japanese it became e the Japanese Government recognized fully the necessity fo tenance in and about Japan of United States armed forces tive draft of agreement was quickly reached. During th months this Tokyo draft was given intensive study both and at Washington, and it was finally perfected at Sa just prior to the signing of the Treaty of Peace. This e security treaty itself to be signed shortly following the s the peace treaty.

The Department of Defense and the Joint Chiefs of St continuous touch with the negotiations and the final resu

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[1] Department of State *Bulletin*, Feb. 12, 1951, pp. 252–255.

States and Japan to cooperate to maintain internatio security in the Japan area.

The Senate Foreign Relations and Armed Services C the House Foreign Affairs and Armed Services Con consulted and were represented on the United Stat which dealt with this treaty.

The treaty itself is a simple document consisting of a four substantive articles. The preamble recites the which have led to the making of the treaty. The bas article (art. I) grants the United States the right to dis and sea forces in and about Japan.

The treaty imposes upon the United States no obli reason for this was pointed out by Mr. Dulles in a state Japan on February 12, 1951. He then said that security involved commitments by the United States should emb ple established by Senate Resolution 239, Eightieth so-called Vandenberg resolution,[1] which calls for "co help and mutual aid" by all the parties to security arran in by the United States. Japan did not feel able at th to assume adequate commitments in that respect. H out in the preamble of the treaty, it is expected "that J increasingly assume responsibility for its own defense."

Article I further provides that United States forces Japan may be used not only for the security of Japa tribute to the maintenance of international peace and Far East." This is an important provision which as United States forces in and about Japan are not requ apart for a limited purpose only, but may be broadl maintenance of peace and security in the entire Far Ea

Article I further provides that United States forces Japan may be used "at the express request of the Jap ment to put down large scale internal riots and disturba caused through instigation or intervention by an out powers."

This provision established, it is believed, a precedent the danger of indirect aggression, and in authorizing measures against it. To a large extent, and particula East, Soviet communism has used the method of indi and civil war. China was conquered by so-called ci North Korean attack was alleged to be civil war. T wars" and "civil disturbances" in Indochina, Malaya, in the Far East. In all of these countries the insurre have the moral and material backing of Soviet commu not be formidable without it. If the security of Japa be assailed, United States forces could be utilized for Japan. But this would only be at the express request o Government, and the independent concurrence of the that the circumstances warrant this unusual action.

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[1] Resolution of June 11, 1948; *A Decade of American Foreign Po*

stitute a deterrent which will make its actual invocation unnecessary. This is what the United States hopes.

Article II provides that Japan will not grant any military facilities to any third power without the consent of the United States.

Article III provides for administrative agreements to cover the disposition of the armed forces of the United States in and about Japan. Such administrative agreements are now in the process of preparation. It is expected they will be completed before the security treaty comes into force.

Article IV provides for termination "whenever in the opinion of the Governments of the United States and Japan" there are satisfactory alternative provisions for the maintenance of international peace and security in the Japanese area. Thus, on the one hand, there cannot be termination without the concurrence of the United States which concurrence, it can be assumed, will not be unreasonably withheld. On the other hand, it is in the mind of the parties that the present bilateral arrangement is only an initial step in an evolutionary process of collective security. It is to be presumed that the United States would welcome developments which would reduce Japan's initial, almost total, dependence on the United States for security.

The security treaty is a grant by Japan of rights of a very broad character. It involves a significant commitment of Japan to the ause of the free world and it testifies to Japan's trust in the United States to be an honorable representative of the free world in its quest for collective security.

. . . .

The security treaty between the United States and Japan presupposes the prior coming-into-force of the treaty of peace with Japan and the consequent restoration of Japan's complete independence Article 5 of the peace treaty between the 48 Allied Powers and Japan contains the enabling clause, referred to in the preamble of the security treaty, whereby the Allied Powers recognize that Japan, as a sovereign nation, possesses the inherent right of individual and collective defense and that Japan may voluntarily enter into collective security arrangements.

Article 6 of the peace treaty is a further enabling article, which provides that the ending of the occupation shall not—

> prevent the stationing or retention of foreign armed forces in Japanese territory under and in consequence of any bilateral or multilateral agreements between one or more of the Allied Powers and Japan.

. . . .

The United States delegation to conclude the United States-Japan Security Treaty consisted of the Secretary of State, Mr. John Foster Dulles, Senators Tom Connally, Alexander Wiley, John J. Sparkman, and H. Alexander Smith of the Senate Foreign Relations Committee, Senators Richard B. Russell and Styles Bridges of the Senate

Armed Services Committee, and Representatives Overton Brooks and Dewey Short of the House Armed Services Committee.

. . . .

22. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 14, 1952 (Excerpt)[1]

Background

From the moment the war in the Far East came to an end the United States, as the principal occupying power, hoped to conclude satisfactory peace arrangements and withdraw our troops from Japan at the earliest practicable moment. Yet, as time went on and world conditions grew worse, it became increasingly apparent that this could not be done safely unless satisfactory provisions could be made to protect Japan against the threat of Communist aggression. If any doubt existed on this point prior to June 1950, it was dissipated by the attack upon the Republic of Korea. Clearly the complete withdrawal of American troops from disarmed Japan would leave a political and military vacuum that would seriously threaten our security interests in the Far East and constitute a real danger to world peace generally.

Responsible officials in both Japan and the United States recognized this basic principle. Early in February 1951 Ambassador Dulles pointed out that the United States would "sympathetically consider" stationing some armed forces in Japan to assist in the defense of that country if the Japanese wished it.[2] On February 11, 1951, Prime Minister Yoshida responded affirmatively:

> The Japanese Government and a preponderant majority of the Japanese people—

he said—

> warmly welcome the Ambassador's invitation to a security arrangement with the United States for the protection of unarmed Japan by the stationing of United States armed forces in and about the country. We realize fully our responsibility to protect ourselves and defend our own land, and do what we can in this respect.

It was agreed that this objective could best be achieved by the conclusion of a bilateral security pact between the United States and Japan simultaneously with the conclusion of the general treaty of peace. To this end article 6 of the peace treaty provides for the withdrawal of occupation forces as soon as possible. But it also makes possible the stationing of foreign armed forces in Japanese territory—

Thus the bilateral security treaty between Japan and the Unite
States forms a natural complement to the Japanese Peace Treaty.

Provisions of the treaty

The preamble to the security treaty makes clear that Japan, as sovereign nation, has a right to enter into collective security arrangements for self-defense purposes. It also emphasizes the desire o Japan that our armed forces be maintained there so as to deter arme attack upon the Japanese homeland. Meanwhile, it is expected tha Japan will "increasingly assume responsibility for its own defense. . . ."

Article I of the security treaty grants to the United States the righ to dispose land, air, and sea forces in and about Japan. It furthe provides that these forces may be used not only for the security o Japan but "to contribute to the maintenance of international peac and security in the Far East. . . ." In view of the role of the Unite States in U. N. operations in Korea, this is an important provision It makes clear that any forces we might station in Japan would no be limited to the defense of Japan but could be used for the maintenance of peace anywhere in the Far East including, of course, U. N police action in Korea.

Article I also provides that at the request of Japan our forces ther may be used—

> to put down large-scale internal riots and disturbances in Japan, caused throug instigation or intervention by an outside power or powers.

This provision recognizes the danger of indirect aggression and civi war which have been resorted to so effectively by international communism against legitimate governments in Korea, Indochina, Malaya and elsewhere in the Far East. It should be noted that this provisio relates to disturbances instigated by an outside power. It shoul not be assumed that our troops would be used to put down disturbances of a purely local or domestic nature. This right to act agains foreign-inspired insurrection is essential to the security of United State forces in Japan and of Japan itself.

Article II provides that Japan will not grant any bases or militar facilities to any third power without the prior consent of the Unite States. This article reflects the special relationship which exist between Japan and the United States as the principal occupyin power.

Article III provides for administrative agreements between the tw Governments to cover the disposition of United States Armed Forces i and about Japan. Obviously the broad grant of power laid down i the security treaty will have to be supplemented by detailed arrangements dealing with such matters as the facilities and areas to be used the rights of the United States in the areas, transit privileges, meteorological services, criminal jurisdiction, imports, taxation, and so on

An over-all administrative agreement between the two countries [1] i now in process of negotiation and will probably be completed before the security treaty comes into force.

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[1] *Infra*, pp. 2406–2423.

Article IV provides for the termination of the treaty whenever the two Governments agree that there exist satisfactory alternative provisions for the maintenance of peace and security in the general area of Japan. Such alternative provisions might emerge in the form of a strengthened United Nations or in some other form not clearly foreseen at present. It is apparent that the treaty constitutes only a first step in the development of collective security in the Japan area. In any event, in spite of suggestions which have been made to the contrary, it is apparent that the treaty cannot be terminated without the consent of the United States.

United States commitments

The security treaty imposes no commitments or obligations upon the United States. We are not obligated to station any forces in Japan unless we decide it is in our own national interest to do so. On the other hand, the rights conferred in the treaty by Japan are very far-reaching in nature. They constitute a significant contribution on the part of Japan to the cause of the free world and to collective security.

During the hearings the question was asked as to whether any obligation flowed from the treaty for the United States to aid Japanese security by supplying such financial assistance as may be required. Ambassador Dulles replied as follows:

> There is no understanding, express or implied, with reference to giving any particular economic aid or assistance to Japan. Everybody knows what the United States policy is, and it is natural that the Japanese should feel, as a partner with us, that they would not be discriminated against. But there is nothing that has been said or done which gives anyone in Japan any right to come to us and say, "You are required to continue to give us economic aid."
>
> What we do will be determined, I take it, by what an enlightened view of our own self-interest requires. That will be a guide and the policies which the Congress lays down. Within that framework I would believe and hope that Japan, if it needed it, would be qualified to receive the kind of help which we are giving others, although Japan would never, in my opinion, need aid in the form of a grant or a gift.[1]

The administrative agreement and the ratification of the peace treaty

During the hearings, committee members asked representatives of the Defense Department whether the entry into force of the peace treaty with Japan might interfere with practical military operations in Korea. General Bradley replied that the treaty might interfere with such operations unless the administrative agreement contemadministrative agreement is concluded. The two instruments could then enter into force at the same time.[1]

More recently the committee has been informed by the executive branch that negotiation of the administrative agreement has been proceeding satisfactorily in Tokyo. The committee believes it would be entirely appropriate, therefore, for the Senate to move ahead with the peace treaty and the related security pacts at an early date Ratification will not occur until the President decides, with Senate consent, actually to deposit the instrument of ratification.

Use of Japanese facilities by U. N. forces

During the negotiations leading up to the conclusion of the peace treaty the United States Government took steps to make certain that the entry into force of the treaty would have no adverse effect upon the assistance now being given by Japan to the U. N. effort in Korea Under article 5, Japan accepts the obligations set forth in article 2 of the U. N. Charter including the pledge—

> to give the United Nations every assistance in any action it takes in accordance with the Charter . . .

While this commitment seems fairly clear, Secretary Acheson, on September 8, 1951, addressed a letter to Prime Minister Yoshida, in which he specifically raised the issue.[2] He pointed out that Japan had rendered important assistance to the U. N. in the form of facilities and services made available to various U. N. members engaged in the Korean operation.

> Since the future is unsettled—

he wrote—

> and it may unhappily be that the occasion for facilities and services in Japan in support of United Nations action will continue or recur, I would appreciate confirmation, on behalf of your Government, that if and when the forces of a member or members of the U. N. are engaged in any U. N. action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members, of the forces engaged in such U. N. action . . .

The Prime Minister's reply was completely reassuring on this point Under date of September 8, 1951, he wrote Secretary Acheson, in part as follows:

> . . . I have the honor, on behalf of my Government, to confirm that if and when the forces of a member or members of the United Nations are engaged in any United Nations action in the Far East after the treaty of peace comes into force, Japan will permit and facilitate the support in and about Japan, by the member or members of the forces engaged in such United Nations action, the expenses involved in the use of Japanese facilities and services to be borne as at present or as otherwise mutually agreed between Japan and the United Nations member concerned.[3]

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[1] Statement of Jan. 21, 1952; *Japanese Peace Treaty and Other Treaties, etc.* . . . p. 15.

[2] Department of State *Bulletin*, Sept. 17, 1951, p. 465.

and the Republic of Korea

23. TEXT OF TREATY, OCTOBER 1, 1953 [1]

The Parties to this Treaty,

Reaffirming their desire to live in peace with all peoples and all governments, and desiring to strengthen the fabric of peace in the Pacific area,

Desiring to declare publicly and formally their common determination to defend themselves against external armed attack so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific area,

Desiring further to strengthen their efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive and effective system of regional security in the Pacific area,

Have agreed as follows:

ARTICLE I

The Parties undertake to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the Purposes of the United Nations, or obligations assumed by any Party toward the United Nations.

ARTICLE II

The Parties will consult together whenever, in the opinion of either of them, the political independence or security of either of the Parties is threatened by external armed attack. Separately and jointly, by self help and mutual aid, the Parties will maintain and develop appropriate means to deter armed attack and will take suitable measures in consultation and agreement to implement this Treaty and to further its purposes.

ARTICLE III

Each Party recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

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[1] TIAS 3097; 5 UST 2368–2376. Ratification advised by the Senate Jan. 26 1954, and ratified by the President Feb. 5, 1954, subject to an understanding

The Republic of Korea grants, and the United States of Americ accepts, the right to dispose United States land, air and sea forces i nd about the territory of the Republic of Korea as determined by mutual agreement.

ARTICLE V

This Treaty shall be ratified by the United States of America an he Republic of Korea in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Washington.[1]

ARTICLE VI

This Treaty shall remain in force indefinitely. Either Party ma terminate it one year after notice has been given to the other Party

IN WITNESS WHEREOF the undersigned Plenipotentiarie ave signed this Treaty.

DONE in duplicate at Washington, in the English and Korea languages, this first day of October 1953.

. . . .

UNDERSTANDING OF THE UNITED STATES [2]

[The United States Senate gave its advice and consent to the ratification of th treaty subject to the following understanding:]

It is the understanding of the United States that neither party i obligated, under Article III of the above Treaty, to come to the ai of the other except in case of an external armed attack against suc party; nor shall anything in the present Treaty be construed as requiring the United States to give assistance to Korea except in th event of an armed attack against territory which has been recognize by the United States as lawfully brought under the administrativ control of the Republic of Korea.

[The United States communicated the text of the understanding to the Republi of Korea in a note of January 28, 1954, acknowledged by the Republic of Kore in a note of February 1, 1954. The text of the understanding was included i the President's proclamation of November 17, 1954.]

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24. JOINT STATEMENT BY THE SECRETARY OF STATE AN THE PRESIDENT OF THE REPUBLIC OF KOREA, AUGUST 8 1953 [3]

Our friendly and understanding consultations demonstrate clearl the determination of the United States and the Republic of Korea t stand together in cordial cooperation to achieve our common objectives, including the reunification of Korea.

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[1] Ratifications were exchanged Nov. 17, 1954.

[2] TIAS 3097.

[3] S. Exec. A, 83d Cong., 2d sess.

That treaty is designed to unite our nations in common action t meet common danger and it will cement the ties which have brough us together to combat in Korea the menace of Communist aggression

Our two Governments will actively proceed with the constitutiona processes necessary to bring this treaty into full force and effect These constitutional processes, in the case of the United States, require that the United States Senate consent to the ratification. The United States Senate, having adjourned this week, will not again b in regular session until next January. However, United States Senate leaders have been kept fully informed of the exchange of view which have led to the action we have taken today and it is our sincere hope that this will lead to prompt and favorable United State Senate action.

Between now and the date when the Mutual Defense Treaty can be expected to come into force and effect, our armed forces in Korea will be subject to the United Nations Command which will comply with the armistice terms. If, during this period, there should occur nprovoked armed attack by the Communist forces against the Republic of Korea in violation of the armistice,[2] the UNC,[3] including the Republic of Korea forces, would at once and automatically react, as such an unprovoked attack would be an attack upon and a threat to the UNC itself and to the forces under its command. Such reaction to an unprovoked armed attack would not be a new war but rather a resumption by the Communist forces of the active belligerency which the armistice has halted. The UNC will be constantly alert against such an attack.

Our Governments will promptly negotiate agreements to cover the status of such forces as the United States may elect to maintain in Korea after the Mutual Defense Treaty comes into force and effect, and the availability to them of Korean facilities and services needed for the discharge of our common task.[4] In the meantime, the Republic of Korea will continue to cooperate with the UNC and the status o UNC forces in Korea and the availability to them of Korean facilities and services will continue as at present.

The armistice contemplates that a political conference[5] will be convened within 3 months, that is, prior to October 27, 1953. At that conference the United States delegation, in cooperation with the ROK[6] delegation and other delegations from the UNC side, will seek to achieve the peaceful unification of historic Korea as a free and ndependent nation. We and our advisers have already had a full and satisfactory exchange of views which we hope and trust will establish a preparatory foundation for coordinated effort at the political conference.

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[1] The treaty was signed Oct. 1, 1953; *supra.*

[2] Agreement of July 27, 1953; *supra,* pp. 724–750.

[3] U.N. Command.

[4] No "status of forces" agreement under this treaty in force as of Dec. 31, 1955.

[5] See *The Korean Problem at the Geneva Conference, April 26–June 15, 1954* (Department of State publication 5609; 1954); also *infra,* pp. 2685–2693 and 695–2701.

[6] Republic of Korea.

If, after the political conference has been in session for 90 days, it becomes clear to each of our governments that all attempts to achieve these objectives have been fruitless and that the conference is being exploited by the Communist delegates mainly to infiltrate, propagandize, or otherwise embarrass the Republic of Korea, we shall then be prepared to make a concurrent withdrawal from the conference. We will then consult further regarding the attainment of a unified, free, and independent Korea which is the postwar goal the United States set itself during World War II, which has been accepted by the United Nations as its goal[1] and which will continue to be an object of concern of United States foreign policy.

We recognize that the Republic of Korea possesses the inherent right of sovereignty to deal with its problems, but it has agreed to take no unilateral action to unite Korea by military means for the agreed duration of the political conference.

We contemplate that the projected 3- to 4-year program for the rehabilitation of the war-ruined Korean economy shall be coordinated through the combined economic board, under the joint chairmanship of the Korean and American representatives.[2] This program contemplates the expenditure of approximately one billion dollars of funds, subject to appropriations thereof by the United States Congress. Two hundred million dollars has already been authorized, out of prospective defense savings.

We have exchanged preliminary views with respect to various problems involving the maintenance and development of ROK land, air, and sea forces.

We feel confident that the relationship thus established between our two Governments marks an important contribution to the developing of independence and freedom in the Far East. With unshaking faith in the principle of collective security, and with loyal adherence to the Charter of the United Nations, we intend to move forward together toward the achievement of our common objective—the restoration of a unified, democratic, and independent Korean nation.

There are no other agreements or understandings stated or implied resulting from these consultations other than those herein contained.

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25. REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, DECEMBER 30, 1953[3]

THE PRESIDENT,

I have the honor to submit to you, with a view to the transmission thereof to the Senate for its advice and consent to ratification, the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington on October 1, 1953.

The provisions of the treaty were negotiated with the Republic of Korea by me during the course of a visit to Korea last August to liscuss problems of mutual concern with President Syngman Rhee.[1] enate leaders were consulted and kept fully informed of the exchange f views which led to the development and formulation of this treaty.

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[1] See *A Decade of American Foreign Policy*, pp. 677–678.

[2] See Department of State *Bulletin*, Jan. 11, 1954, pp. 65–67.

[3] S. Exec. A, 83d Cong., 2d sess.

As I stated at the signing of the treaty, it is a defense treaty firmly ledicated to peace.[2] It is designed to deter aggression by making lear that each party recognizes that an armed attack in the Pacific rea upon the territory administratively controlled by either would e dangerous to its own peace and safety, and declares that it would ct to meet the common danger in accordance with its constitutional rocesses. The undertaking of each party to aid the other operates nly in case that party is the victim of external armed attack. Armed ttack by a party, either against a foreign state, or against territory ot at the time recognized by the other as lawfully brought under the dministrative control of the first, does not bring the treaty into peration. An armed attack by either party does not obligate the ther to come to its assistance.

As another step in the development of a Pacific security system, he treaty will complement the earlier treaties which have entered into orce with Australia and New Zealand,[3] the Philippines,[4] and Japan.[5] ike those treaties, the treaty with Korea is in full conformity with he objectives and principles of the Charter of the United Nations. t affirms the belief of this Government that the security of an indi- idual nation in the free world depends upon the security of its part- ers and constitutes another link in the collective security of the free ations of the Pacific.

The treaty consists of a preamble and six substantive articles. The reamble sets forth the circumstances for making the treaty, provid- g in particular that the treaty is designed to coordinate the efforts f the parties "pending the development of a more comprehensive ystem of regional security in the Pacific area." Thus evolutionary evelopments are contemplated as in the treaties with Australia and ew Zealand, the Philippines, and Japan.

Article I is identical with the comparable articles in the tripartite nd Philippine treaties, except for the inclusion of an additional hrase whereby the parties agree to refrain in their international lations from the threat or use of force in any manner inconsistent ot only with respect to the purposes of the United Nations, but also ith respect to the obligations assumed by any party toward the nited Nations.

Article II calls for consultation between the parties whenever the rritorial integrity, political independence, or the security of either arty is threatened by external armed attack. The article also mbodies the principle established by Senate Resolution 239, 80th ongress, the Vandenberg resolution,[6] which calls for "self-help and mutual aid" by all the parties to security arrangements joined in by the United States and which involve commitments by the United States. The provisions of the article are similar to comparable provisions in the treaties with Australia and New Zealand and with the Philippines.

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[1] See *supra*.

[2] Statement of Oct. 1, 1953; Department of State *Bulletin*, Oct. 12, 1953, pp. 4–485.

[3] Treaty of Sept. 1, 1951; *supra*, doc. 16.

[4] Treaty of Aug. 30, 1951; *supra*, doc. 13.

[5] Treaty of Sept. 8, 1951; *supra*, doc. 19.

[6] Resolution of June 11, 1948; *A Decade of American Foreign Policy*, p. 197.

Article III is the heart of the treaty. Under that article each party—

> recognizes that an armed attack in the Pacific area on either of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

This language is the same as the comparable provisions in the treaties with Australia and New Zealand and with the Philippines except that it defines the area within which the treaty is to operate, namely in territories now under the respective administrative control of either party, or hereafter recognized by one of the parties as lawfully brought under the administrative control of the other. This provision is designed to take cognizance of the fact that the Republic of Korea presently has effective control over only part of Korea. If either contracting state should initiate an armed attack against any territory not under its administrative control when the treaty was signed or thereafter recognized by the other as lawfully brought under the administrative control of the first, the treaty would not apply. Under its terms the treaty could continue to be applicable in event that a political settlement unifying Korea is reached. In the Australian and New Zealand and Philippine treaties the area within which they are to operate is defined in a separate article.

Article IV grants to the United States the right to dispose land, air, and sea forces in and about the territory of Korea as determined by mutual agreement. It does not make such disposition automatic or mandatory.

According to article VI, the treaty has indefinite duration, but either party may terminate it 1 year after notice is given.

In view of the importance of this treaty as a deterrent to aggression and thus to the maintenance of peace and security in the Pacific area, it is hoped that it will be given early and favorable consideration by the Senate.

Respectfully submitted.

JOHN FOSTER DULLES.

26. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, JANUARY 21, 1954[1]

The Committee on Foreign Relations, to whom was referred the Mutual Defense Treaty With Korea (Ex. A, 83d Cong., 2d sess.), signed at Washington on October 1, 1953, without objection reports the treaty to the Senate with an understanding, and recommends that its advice and consent to ratification be given at an early date.

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[1] S. Exec. Rept. No. 1, 83d Cong., 2d sess.

1. MAIN PURPOSE OF THE TREATY

The primary purpose of this treaty is to deter further aggression in the Pacific area by a clear warning to potential aggressors that the United States and the Republic of Korea will regard an armed attack on the territory of either party as dangerous to their peace and security and that they will act to meet this danger in accordance with their constitutional processes (art. III). Other articles of the treaty spell out the obligation of the parties to refrain from force or the threat of force in their relations with other nations (art. I), to consult should an external attack threaten, and to maintain and develop through self-help and mutual aid their individual and collective strength to repel an armed attack (art. II). Finally, in article IV, the Republic of Korea grants and the United States accepts the right to station armed forces in South Korea subject to mutual agreement.

2. BACKGROUND OF THE TREATY

Since the outbreak of Communist aggression in Korea, the United States has sought by various means to strengthen the security of the Pacific. One of these has been to enter into mutual defense or security pacts with certain nations important to the security of that area and to our own defense interests. Three such treaties are now in effect—the first with the Philippines,[1] the second with Australia and New Zealand,[2] and the third with Japan.[3] The Senate gave its advice and consent to these treaties on March 20, 1952. The Korean treaty makes the fourth strand in this network of mutual defense treaties in the Pacific.

The treaty grew out of the Korean armistice negotiations[4] and the legitimate concern on the part of the Republic of Korea for its security in the period following the armistice. In an exchange of letters last May and June with President Rhee,[5] President Eisenhower stated that he was "prepared promptly, after the conclusion and acceptance of an armistice, to negotiate" with the South Korean Government a mutual defense treaty similar to those with the other Pacific nations, Japan, the Philippines, Australia, and New Zealand. Preliminary discussions on the treaty were held between Walter S. Robertson, Assistant Secretary of State for Far Eastern Affairs, and President Rhee in June while armistice talks were still in progress.[6] They reached a considerable area of agreement, and following the conclusion of the armistice on July 27, 1953, Secretary of State Dulles and President Rhee finished the negotiations on the Mutual Defense

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[1] *Supra*, doc. 13.

[2] *Supra*, doc. 16.

[3] *Supra*, doc. 19.

[4] See *infra*, pp. 2627–2662.

[5] See President Eisenhower's letter of June 6, 1953 to President Rhee; *infra*, pp. 2729–2731.

[6] See the Joint Statement of July 11, 1953; *infra*, pp. 2673–2674.

Treaty, which was made public on August 8, 1953.[1] The treaty was subsequently signed on October 1, 1953, and transmitted to the Senate for its advice and consent on January 11, 1954.

3. COMMITTEE ACTION

Assistant Secretary Robertson, on his return from the preliminary negotiations with President Rhee, appeared before the committee on July 16, 1953, and gave a full report on the course of the negotiations, on the problems encountered, and on proposed future negotiations. This was supplemented by several consultations between the Secretary of State and the members of the Far Eastern Subcommittee[2] during the negotiations. In the light of these consultations, and the fact that the treaty was made public almost 2 months before it was signed and 5 months before it was transmitted to the Senate, the committee felt that adequate opportunity for a full consideration of all the issues involved had been offered. Consequently, the committee proceeded to consider the treaty soon after its reference to the Senate.

On January 13, 1954, public hearings began[3] with testimony by Secretary of State John Foster Dulles, who discussed in detail the foreign-policy aspects of the treaty. The hearings concluded the following day with testimony by Secretary of the Army Robert T. Stevens and the Chief of Staff of the Army, Gen. Matthew V. Ridgway, who addressed themselves to the military aspects of the treaty. The committee considered the treaty in executive session on January 19, 1954, and voted without objection to report the treaty to the Senate with an understanding, which is discussed below.

The committee wishes to commend the executive branch for its attempts to keep the committee informed during the course of the negotiations. Such consultations, properly timed as they were, can do much to build a spirit of cooperation between the two branches of the Government.

4. SUMMARY OF TREATY PROVISIONS

In the preamble to the treaty the parties express their determination and desire to live in peace, to strengthen the fabric of peace in the Pacific, to defend themselves against external armed attack, and to strengthen their efforts for collective defense pending the development of a more effective system of regional security in that area. The preamble thus recognizes the relation between the security interests of the United States and the Republic of Korea.

Article I of the treaty sets the keynote of the instrument as a purely defensive arrangement which is dedicated to peace and constitutes a threat to no nation, but which is intended to further the system of collective security thus far developed for the defense and protection of free nations in the Pacific. By its terms the parties undertake to settle any international dispute in which they may be involved by peaceful means, and to refrain in their international relations from the threat or use of force inconsistent with the purposes of the United Nations, or obligations assumed by any party toward the United Nations.

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[1] See *supra*, doc. 24.

[2] Senators H. Alexander Smith, Bourke B. Hickenlooper, William F. Knowland, Walter F. George, and John J. Sparkman.

[3] Published under the title *Hearings before the Committee on Foreign Relations, United States Senate, 83rd Congress, 2nd Session, Executive A, A Mutual Defense Treaty between the United States of America and the Republic of Korea, Signed at Washington on October 1, 1953.*

Article II, which incorporates the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.), requires the parties to consult together whenever either one is of the opinion that the political independence or security of either is threatened by external armed attack. Both countries also undertake, separately and jointly, through self-help and mutual aid, to maintain and develop appropriate means to deter armed attack and to implement the treaty. The joint consultation contemplated by the first clause of this article may take any form deemed appropriate by the parties.

Article III contains the heart of the treaty. It is worded as follows:

> Each Party recognizes that an armed attack in the Pacific area on each of the Parties in territories now under their respective administrative control, or hereafter recognized by one of the Parties as lawfully brought under the administrative control of the other, would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

This language corresponds to the provisions of article V of the Philippine and Australian-New Zealand Mutual Defense Pacts with the United States, but with this difference: Article V of the latter treaties applies to an armed attack on the—

> metropolitan territory of any of the parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

Article III of the Korean Treaty, on the other hand, which is dealt with in more detail below, was drafted to take cognizance of the fact that the Republic of Korea at present has effective control over only a part of Korea, and to anticipate the day when a settlement unifying Korea would be reached through processes recognized as lawful by the United States. But the undertaking of each party to come to the aid of the other becomes effective only in case that party is the victim of an external armed attack. It does not apply to territories not now under the administrative control of either party; it does not apply to territory which is not at some future time recognized by the United States as having been lawfully brought under the administrative control of the other party; nor does it apply to an armed attack initiated by either party.

By article IV of the treaty the United States is given the right to dispose of United States land, air, and sea forces in and about the territory of the Republic of Korea as determined by future mutual agreement. However, the scope of this provision is narrower than the corresponding provision (art. I) of the security treaty with Japan, which covers not only the case of an external armed attack but also assistance requested from the United States by Japan to put down large-scale riots or disturbances instigated by an outside power. Such a clause was deemed essential in the Japanese treaty because at that time Japan was wholly disarmed; but there is no obligation incumbent upon the United States under the Korean Treaty to participate in the internal security of the Korean Republic, or to take any military measures as a result of the violent overthrow of the Government or a coup d'etat. There is, in fact, no obligation for the United States to maintain any armed forces whatsoever in Korea.

Article V contains the usual ratification clause. Finally, under article VI, the treaty is to remain in force indefinitely, although either party may terminate it 1 year after giving notice to the other party.

5. SCOPE OF COMMITMENTS UNDER THE TREATY AND THE COMMITTEE UNDERSTANDING

Although the basic principles inspiring the Korean Treaty are somewhat similar to those of the Rio de Janeiro [1] and North Atlantic Pacts,[2] there are a number of important differences. Like the Rio and NATO Pacts, the present instrument provides for consultation and, when necessary, appropriate action. There are, however, two principal elements in the formula of article III of the Korean Treaty which distinguish it from the other treaties. The first is one which has already been noted, namely, its description of the territorial area to which the treaty applies. The provision gave rise to a searching discussion in the committee, where concern was expressed over the possibility that the United States might be called upon to give aid in the event the Korean Republic should seek to extend its dominion over North Korea either by an unprovoked attack on that area or by some other means not regarded as lawful by the United States. It seemed desirable to underline the fact that the United States must reserve for itself the right to determine whether territory not now under the administrative control of Korea has lawfully been brought under such control. Secretary of State Dulles had emphasized that the words "lawfully coming under its control" were intended as a discouragement to what might be considered as improper action in violation of the treaty to bring other territory under the control of the other party; and that if such action were taken the treaty would not apply automatically to the new territory.[3]

The apprehensions voiced on this point led to a proposal by Senator George of an interpretative clause which would make clear just how far the obligations of the United States extended, to insure that the treaty could not be invoked to command the support of the United States for anything other than an armed external attack upon territory over which the United States recognized that the Government of Korea had lawfully acquired administrative control. Accordingly, the committee, in reporting the treaty to the Senate, recommends that the resolution giving its advice and consent to ratification, include the following clause:

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[1] *Supra*, doc. 1.

[2] *Supra*, doc. 4.

[3] See Secretary Dulles' report of Dec. 30, 1953 to President Eisenhower; *supra*, doc. 25.

> It is the understanding of the United States that neither party is obligated, under Article III of the above Treaty, to come to the aid of the other except in case of an external armed attack against such party; nor shall anything in the present Treaty be construed as requiring the United States to give assistance to Korea except in the event of an armed attack against territory which has been recognized by the United States as lawfully brought under the administrative control of the Republic of Korea.

The clause, in sum, which was not deemed necessary for the other security treaties in the Pacific area, was regarded as desirable because of the unique conditions existing in Korea. It is not intended to effect any change in the treaty, but merely reaffirms what had already been emphasized by our own representatives at the time of its negotiation.

6. "MONROE DOCTRINE" FORMULA

The second element to be noted in the formula of article III is its replacement of the specific commitment language used in the North Atlantic Treaty, by what Secretary Dulles has called the "Monroe Doctrine" [1] principle. Thus, each party, in article III, recognizes that the armed attack referred to therein would be dangerous to its own peace and safety. The action to be taken would then be determined in accordance with its constitutional process. By contrast, the North Atlantic Treaty formula makes an attack upon one tantamount to an attack upon all, so that such an attack, which might not take place against the United States itself, is nevertheless so regarded. Because of the constitutional issues which the approach suggests, for example, whether an attack upon another member gives the President the same inherent right to act as an attack upon United States territory, the language of President Monroe was regarded by Secretary Dulles as preferable when he negotiated the Philippine and Australia-New Zealand Pacts, and is reproduced in the Korean Treaty.

In short, the phraseology of article III of the Korean Pact permits the United States to take any action we deem appropriate by our constitutional processes, and gives adequate assurance of support to the other country which may be the victim of an attack. It has the additional advantage of never having been challenged throughout our history, from the constitutional standpoint, as altering the balance of power between the President and Congress.

7. STATUS OF UNITED STATES FORCES IN THE REPUBLIC OF KOREA

As already noted earlier in the report, article IV of the treaty gives the United States—

> the right to dispose United States land, air, and sea forces in and about the territory of the Republic of Korea as determined by mutual agreement.

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[1] See *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930).

United States would be under no obligation to station forces in South Korea under the treaty. The United States has the right to do so, if it determines that such action would be in its national security interests.

The present political and military situation in Korea, however, makes it apparent that the stationing of United States armed forces in the Republic of Korea will be in our national interests for the time being. The committee, therefore, concerned itself also with the arrangements needed to regulate the presence of our armed forces on Korean soil.

The committee was informed that a supplementary agreement to implement the terms of article IV would be negotiated in the future and would set forth the status of American forces disposed there pursuant to article IV. The committee understands that this agreement will be an executive agreement and will follow the general lines of the NATO status of forces agreement [1] to which the Senate gave its advice and consent last summer. The committee was assured by the Department of State that it would be consulted on the exact terms of this agreement.

8. ADEQUACY OF UNITED STATES MILITARY STRENGTH

The commitments shouldered by the United States under the terms of this treaty are described in section 5. In connection with these commitments, the committee took note of the President's statement of December 26, 1953, that he has directed the progressive reduction of United States ground forces in Korea, beginning with the withdrawal of two Army divisions.[2]

The committee received the assurances of Secretary Dulles and General Ridgway that the United States is capable of assuming these additional commitments and is not overextending itself in the Far East. The contemplated withdrawal of two Army divisions, General Ridgway testified—

> would not weaken our position over there. In fact, I think it would add to our flexibility.[3]

On July 27, 1953, the 16 United Nations members with troops in Korea (including the United States) declared—

> that if there is a renewal of the armed attack . . . we should again be united and prompt to resist. The consequences of such a breach of the armistice would e so great that, in all probability, it would not be possible to confine hostilities within the frontiers of Korea.[4]

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[1] Agreement of June 19, 1951; *infra,* pp. 1529–1544.

[2] *Infra,* p. 2733.

[3] Statement of Jan. 14, 1954; *Hearings Before the Committee on Foreign Relations, United States Senate, 83rd Congress, 2nd Session, Executive A, A Mutual Defense Treaty Between the United States of America and the Republic of Korea, Signed at Washington on October 1, 1953,* p. 30.

[4] *Infra,* p. 2662.

Korea, President Eisenhower alluded to this statement and added:

> United States military forces in the Far East will be maintained at appropriat levels to take account of the foregoing and to fulfill the commitments which th United States has undertaken in that area, and which are vital to the security o the United States. These forces will feature highly mobile naval, air, and amphibious units.

The committee was informed that the withdrawal of the two Arm divisions is, therefore, a part of the regrouping of United States force in the Pacific to enable the United States to react with greater flexibility to any renewed aggression in the area.

In the words of Secretary Dulles:

> If we had to try to maintain ground forces, let us say, in Asia, to meet an attac by ground forces at any place where the enemy chooses to attack, then I believ that we are virtually subservient to the enemy.
>
> What we must do is to make clear that if there is such an attack, which involve our vital interest, our reaction will be, as I said last night,[1] at places and by mean of our own choosing. We will not necessarily allow the enemy to pick the rule of battle and the place of battle and the conditions of battle which best suit hi purposes.
>
> By making that clear . . . it is possible for us to protect our vital interest without an overextension.[2]

The committee wishes to call attention to these assurances fron responsible administration officials that the defensive posture of th United States has not been impaired but rather strengthened by th proposed withdrawal of the two Army divisions from Korea, and tha the United States has the military capacity to fulfill its commitmen to Korea in the event of renewed Communist aggression.

9. RELATIONSHIP OF THE TREATY TO THE UNITEI NATIONS CHARTER

The United Nations Charter is referred to in article I of the treaty where the parties agree to—

> refrain in their international relations from the threat or use of force in any manne inconsistent with the Purposes of the United Nations, or obligations assumed b any Party toward the United Nations.

This reference to the charter compares with similar references in th Philippine and the Australia and New Zealand Treaties.

The Korean Treaty, like the two latter treaties, according to Secretary Dulles' testimony, falls under article 51 of the charter whic provides:

> Nothing in the present Charter shall impair the inherent right of individual o collective self-defense if an armed attack occurs against a Member of the Unite Nations, until the Security Council has taken the measures necessary to maintai international peace and security. Measures taken by Members in the exercis of this right of self-defense shall be immediately reported to the Security Counci and shall not in any way affect the authority and responsibility of the Securit Council under the present Charter to take at any time such action as it deem necessary in order to maintain or restore international peace and security.

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[1] Address of Jan. 12, 1954; *supra*, pp. 80–85.

[2] Statement of Jan. 13, 1954; *Hearings*, p. 7.

action under the Korean Treaty. Our only obligation would be to report the action taken to the United Nations. He stressed that chapter VIII, relating to regional arrangements, and in particula article 53 in that chapter, requiring the previous authorization of the Security Council for regional enforcement action, did not apply to this treaty any more than it does to our other security pacts in the Pacific.

> . . . in my opinion we could act under this treaty without the prior consent o the Security Council. The treaty would not have much value if we had to get the prior consent of the Security Council, carrying with it a Soviet assent, whic would not presumably be obtainable; but we would be obligated to report to the Security Council what we were doing under the provisions of article 51.[1]

The Secretary of State, however, added that as a practical matte the United States would probably bring any recurrence of Communis aggression immediately to the attention of the United Nation Security Council and, if a Soviet veto obstructed action there, to th General Assembly which, under the "Uniting for peace" resolution, has the power to recommend action.

> . . . I would hope very much that we would resort to that "Uniting for peace' resolution and the action which it authorizes, and that we would not allo ourselves to be isolated in any action.[3]

The committee noted that the specific language of the Philippine and Australian and New Zealand Treaties, relating to the submissio of reports to the Security Council, had been omitted from the Korea Treaty. (See p. 14 of the hearings.) Some concern was voiced les this omission be interpreted as a deliberate disregard for the Unite Nations and our obligations under the Charter.

The executive branch has assured the committee that such is no the case. The sole reason for the omission of the language is the fac that article 51 refers specifically to members of the United Nation and the Republic of Korea is not a United Nations member. Durin the negotiations, therefore, it was considered preferable to omit th reference to the Security Council. This in no way reflects any chang in the strong support of the present administration for the Unite Nations.

10. DETERRENT NATURE OF TREATY

The primary value of the treaty, in the words of Secretary of Stat Dulles, consists in giving to the Communists notice, beyond an possibility of misinterpretation, that the United States would no remain indifferent to any new Communist aggression in Korea Together with the other measures taken until now in the Far East the treaty, by relieving the Communists of any illusions concerning th consequences of any new aggression in Korea, should serve as a powerful deterrent to any reckless course of action which might plunge th

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[1] *Hearings*, p. 22.

[2] Res. 377 (V), Nov. 3, 1950; *supra*, pp. 187–192.

[3] *Hearings*, p. 23.

Pacific area into a wide-scale war. At the same time, the prospect o stability in the Korean area is further increased by the express limitation on the territorial scope of the treaty contained in article III.

11. A PACIFIC PACT

Reference has already been made in this report to the security an mutual defense treaties between the United States and Australia an New Zealand, the Philippines, and Japan. The treaty with Kore makes the fourth such arrangement which the United States ha negotiated in the Pacific area. The committee has noted the difference in the approach of the United States to security problems in th Atlantic and Pacific regions. The North Atlantic Treaty embrace 14 nations of the North Atlantic Community together in 1 multipartite agreement for their collective self-defense. In the Pacific, o the other hand, the United States has entered into bipartite, or in th case of Australia and New Zealand, tripartite treaties with particula nations in that area. The committee, therefore, raised the questio of a Pacific pact or Pacific NATO with the Secretary of State Although he felt that such a development would have certain advantages, the Secretary pointed out that the Pacific countries hav cultural and political differences in addition to physical separation which distinguished that area from Europe.

> I think it would be very fortunate if [a Pacific security system could be developed] and it certainly is a possibility which we have very much in mind, but it doe not seem as though that could be achieved at any early predictable date.[1]

The committee, while concurring in the Secretary's evaluation of th prospects for a Pacific Pact, wishes nonetheless to express its belie that such a pact is a desirable ultimate objective of United State policy in the Pacific and hopes that the Department of State wil continue to encourage such a development. The security of th Pacific area would be measurably enhanced if the nations of tha region would join and work together for their regional and collectiv self-defense.

12. NEED FOR RATIFICATION NOW

The terms of the Korean armistice agreement state that afte January 22, 1954, all prisoners in the custody of the Neutral Nation Repatriation Commission shall be released. At the same time, the rospects for a political conference on Korea are not encouraging preliminary negotiations having been broken off in December.[2] Thes two facts combine to make the Korean situation uncertain.

The committee, in view of this circumstance, explored with ad ministration witnesses the timing of the United State r tification of enemies of the Republic of Korea as to what our intentions were.

And General Ridgway added:

> I would think the sooner the treaty were in effect, the better, in our interests.[2]

The committee concurs in these opinions, in the conviction that the entry into effect of this treaty, which the Republic of Korea has already ratified, will be a stabilizing factor in the Korean situation.

13. CONCLUSIONS

The committee believes that the objectives of this treaty are important to the security of the United States in the Far East. The treaty constitutes an essential link in the system of collective security thus far developed. Because it gives clear and formal notice to would-be aggressors that we will react with prompt measures to defend the peace in the event of an attack upon an area vital to our safety, it eliminates a factor which may have played a major role in the outbreak of the major wars of this century—that of miscalculation by the enemy as to what our conduct would be.

While there are risks in any course of action of this kind in the Pacific, there are greater risks in not advising a potential enemy just what he can expect us to do, and in not recognizing the advantages to the United States in having a powerful and loyal ally whose subjects fought valiantly at our side during a 3-year campaign in the interests of peace and justice.

For these reasons the Committee on Foreign Relations urges the Senate to give its advice and consent to the ratification of this treaty, subject to the understanding noted above.

Southeast Asia Collective Defense Treaty (Manila Pact)

27. TEXT OF TREATY, SEPTEMBER 8, 1954[3]

The Parties to this Treaty,

Recognizing the sovereign equality of all the Parties,

Reiterating their faith in the purposes and principles set forth in the Charter of the United Nations and their desire to live in peace with all peoples and all governments,

Reaffirming that, in accordance with the Charter of the United Nations, they uphold the principle of equal rights and self-determination of peoples, and declaring that they will earnestly strive

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[1] *Hearings*, p. 6.

[2] *Ibid.*, p. 48.

[3] TIAS 3170; 6 UST 81–86. Ratification advised by the Senate Feb. 1, 1955; ratified by the President Feb. 4, 1955; entered into force Feb. 19, 1955.

the independence of all countries whose peoples desire it and ar able to undertake its responsibilities,

Desiring to strengthen the fabric of peace and freedom and t uphold the principles of democracy, individual liberty and the rul of law, and to promote the economic well-being and developmen of all peoples in the treaty area,

Intending to declare publicly and formally their sense of unity so that any potential aggressor will appreciate that the Parties stanc together in the area, and

Desiring further to coordinate their efforts for collective defens for the preservation of peace and security,

Therefore agree as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the Unite Nations, to settle any international disputes in which they may b involved by peaceful means in such a manner that internationa peace and security and justice are not endangered, and to refrai in their international relations from the threat or use of force i any manner inconsistent with the purposes of the United Nations

ARTICLE II

In order more effectively to achieve the objectives of this Treaty the Parties, separately and jointly, by means of continuous anc effective self-help and mutual aid will maintain and develop thei ndividual and collective capacity to resist armed attack and t prevent and counter subversive activities directed from withou against their territorial integrity and political stability.

ARTICLE III

The Parties undertake to strengthen their free institutions and t cooperate with one another in the further development of economi measures, including technical assistance, designed both to promot economic progress and social well-being and to further the individua and collective efforts of governments toward these ends.

ARTICLE IV

1. Each Party recognizes that aggression by means of armed attac in the treaty area against any of the Parties or against any State o territory which the Parties by unanimous agreement may hereafte designate, would endanger its own peace and safety, and agrees tha it will in that event act to meet the common danger in accordance wit its constitutional processes. Measures taken under this paragrap shall be immediately reported to the Security Council of the Unite Nations.

2. If, in the opinion of any of the Parties, the inviolability or th integrity of the territory or the sovereignty or political independenc

which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

3. It is understood that no action on the territory of any State designated by unanimous agreement under paragraph 1 of this Article or on any territory so designated shall be taken except at the invitation or with the consent of the government concerned.

Article V

The Parties hereby establish a Council, on which each of them shall be represented, to consider matters concerning the implementation of this Treaty. The Council shall provide for consultation with regard to military and any other planning as the situation obtaining in the treaty area may from time to time require. The Council shall be so organized as to be able to meet at any time.

Article VI

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of any of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security. Each Party declares that none of the international engagements now in force between it and any other of the Parties or any third party is in conflict with the provisions of this Treaty, and undertakes not to enter into any international engagement in conflict with this Treaty.

Article VII

Any other State in a position to further the objectives of this Treaty and to contribute to the security of the area may, by unanimous agreement of the Parties, be invited to accede to this Treaty Any State so invited may become a Party to the Treaty by depositing its instrument of accession with the Government of the Republic of the Philippines. The Government of the Republic of the Philippines shall inform each of the Parties of the deposit of each such instrument of accession.

Article VIII

As used in this Treaty, the "treaty area" is the general area of Southeast Asia, including also the entire territories of the Asian Parties and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. The Parties may by unanimous agreement, amend this Article to include within the treaty area the territory of any State acceding to this Treaty in accordance with Article VII or otherwise to change the treaty area.

Article IX

1. This Treaty shall be deposited in the archives of the Governmen of the Republic of the Philippines. Duly certified copies thereo shall be transmitted by that government to the other signatories.

2. The Treaty shall be ratified and its provisions carried out by the Parties in accordance with their respective constitutional processes The instruments of ratification shall be deposited as soon as possibl with the Government of the Republic of the Philippines, which shal notify all of the other signatories of such deposit.[1]

3. The Treaty shall enter into force between the States which have ratified it as soon as the instruments of ratification of a majority o the signatories shall have been deposited, and shall come into effect with respect to each other State on the date of the deposit of its instrument of ratification.

Article X

This Treaty shall remain in force indefinitely, but any Party may cease to be a Party one year after its notice of denunciatio has been given to the Government of the Republic of the Philippines, which shall inform the Governments of the other Parties of the deposit of each notice of denunciation.

Article XI

The English text of this Treaty is binding on the Parties, but when the Parties have agreed to the French text thereof and have so notified the Government of the Republic of the Philippines, the French text shall be equally authentic and binding on the Parties

UNDERSTANDING OF THE UNITED STATES OF AMERICA

The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

Done at Manila, this eighth day of September, 1954.

. . . .

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[1] Thailand deposited its instrument of ratification Dec. 2, 1954; the remaining signatories (the United States, Australia, France, New Zealand, Pakistan, the Philippines, and the United Kingdom) deposited their instruments Feb. 19, 1955

Designation of States and Territory as to which provisions of Article IV and Article III are to be applicable

The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam.

The Parties further agree that the above mentioned states and territory shall be eligible in respect of the economic measures contemplated by Article III.

This Protocol shall enter into force simultaneously with the coming into force of the Treaty.

In witness whereof, the undersigned Plenipotentiaries have signed this Protocol to the Southeast Asia Collective Defense Treaty.

Done at Manila, this eighth day of September, 1954.

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29. PACIFIC CHARTER, SEPTEMBER 8, 1954 [2]

The Delegates of Australia, France, New Zealand, Pakistan, the Republic of the Philippines, the Kingdom of Thailand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America;

Desiring to establish a firm basis for common action to maintain peace and security in Southeast Asia and the Southwest Pacific;

Convinced that common action to this end, in order to be worthy and effective, must be inspired by the highest principles of justice and liberty;

Do hereby proclaim:

First, in accordance with the provisions of the United Nations Charter, they uphold the principle of equal rights and self-determination of peoples and they will earnestly strive by every peaceful means to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities;

Second, they are each prepared to continue taking effective practical measures to ensure conditions favorable to the orderly achievement of the foregoing purposes in accordance with their constitutional processes;

Third, they will continue to cooperate in the economic, social and cultural fields in order to promote higher living standards, economic progress and social well-being in this region;

Fourth, as declared in the Southeast Asia Collective Defense

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[1] TIAS 3170; 6 UST 87–89. Ratification advised by the Senate Feb. 1, 1955; ratified by the President Feb. 4, 1955; entered into force Feb. 19, 1955.

[2] S. Exec. K, 83d Cong., 2d sess. No Senate action required.

Treaty, they are determined to prevent or counter by appropriate neans any attempt in the treaty area to subvert their freedom or to lestroy their sovereignty or territorial integrity.

PROCLAIMED at Manila, this eighth day of September, 1954.

. . . .

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30. STATEMENT BY THE SECRETARY OF STATE AT MANILA SEPTEMBER 6, 1954 [1]

We have come here to establish a collective security arrangemen for Southeast Asia. In so doing we are acting under the authority and in accordance with the principles, of the United Nations Charter What we do is directed against no nation and no peoples. We exercise what the charter refers to as the inherent right of collective self-defense.

The United States has itself no direct territorial interests in Southeast Asia. Nevertheless, we feel a sense of common destiny with those who have in this area their life and being.

We are united by a common danger, the danger that stems from international communism and its insatiable ambition. We know that wherever it makes gains, as in Indochina, these gains are looked on not as final solutions, but as bridgeheads for future gains. It is that fact which requires each of us to be concerned with what goes on elsewhere.

The danger manifests itself in many forms. One form is that of open, armed aggression.

We can greatly diminish that risk by making clear that an attack upon the treaty area would occasion a reaction so united, so strong and so well placed that the aggressor would lose more than it could hope to gain.

So our association should bind the members to develop both individual and collective capacity to resist armed attack. The United States is itself seeking to do that, and we note with satisfaction the efforts which are being made in this direction in other countries here, such as the Philippines, Thailand, and Pakistan. We welcome the historic declaration by the Prime Minister of Australia that Australia was prepared to accept, even in time of peace, overseas military commitments.

It will be necessary to assure that the individual efforts of the various parties to the treaty are used to the best common advantage Those nations which are represented here cannot match the vas vast and so far flung that we believe we serve best by developing the deterrent of mobile striking power, plus strategically placed reserves.

I am confident that our prospective treaty members, by adequate and well-coordinated efforts which are within our capacity, can establish a power that protects us all.

In addition to the danger of open, armed attack there is the danger from subversion and indirect aggression. There is no simple or single formula to cover such risks. To meet them requires dedication, fortitude, and resourcefulness, such as was shown here by President Magsaysay.[1]

The opportunities of communism will diminish if trade relationships help the free nations to strengthen their economies. This will require the participation of countries additional to those which are particularly concerned with the security of Southeast Asia. Economic planning, to be adequate, must stimulate trade not only within the Southeast Asia area but also between that area and South Asia and the West Pacific. Such planning is obviously beyond the scope of this Conference. But this Conference would not do its duty toward the many who place hope in us if we did not leave here with a well-conceived resolve to unite our efforts with those of others to make the free countries of this area stronger and more vigorous, not only militarily, but also socially and economically.

Some countries which have a close relationship to the prospective treaty area are not here. Among these are Cambodia, Laos, and Viet-Nam. Their governments and people can know that we shall have them much in mind, and I hope we shall be able to throw over them some mantle of protection. There are other countries which may subsequently desire to join our defensive grouping. To that end our treaty will, I hope, make provision for the adherence of new members.

There is one aspect of our problem which should always be remembered. That is the yearning of the Asian peoples to be free of "colonialism."

International communism uses "nationalism" as a slogan for gaining control and then imposes its own brutal form of imperialism, which is the negation of nationalism.

We are rightly zealous against that Communist threat. But we should be careful lest that zeal lead us inadvertently to offend those who still associate colonialism with the Western Powers.

It must be made abundantly clear that we, each and all, intend to invigorate the independence of the new nations and to promote the processes whereby others become capable of winning and sustaining the independence they desire. Only then can the West and the East work together in true fellowship.

We gather here with some differences to be resolved. That is nothing frightening. Differences are inherent in a society of freedom.

I do not doubt that out of our initial differences we shall develop an area of significant agreement. That is our high duty, both to ourselves and others.

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[1] Ramón Magsaysay, President of the Philippines.

We see that duty dramatically defined as in Northern Viet-Nam hundreds of thousands are today abandoning their ancient homes to start life anew where they believe they will be free. We are seeing another exodus, such as took millions out of Communist East Germany and millions out of Communist North Korea.

Those of us who are free and strong and not yet instantly imperiled are bound in honor to prove that freedom can protect those who, at immense sacrifice, are faithful to freedom.

Let that be the dedication of our Conference.

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31. ADDRESS BY THE SECRETARY OF STATE, SEPTEMBER 15, 1954[1]

Our quest for peace took us last week to Manila. There, eight nations met to create unity for security and peace in Southeast Asia and the Southwestern Pacific.

This unity was something that the United States had long sought. Four years ago I negotiated security treaties with Australia and New Zealand[2] and with the Philippines.[3] But we all knew that that was not enough; so these treaties called for "the development of a more comprehensive system of regional security in the Pacific area." President Eisenhower, in his peace address of April 16, 1953, called for "united action" to meet the threat of aggression in Southeast Asia.[4] Last March, I repeated that appeal.[5]

The President and I had hoped that unity could be forged in time to strengthen the negotiating position of the free nations during the Indochina phase of the Geneva Conference. However, this proved impracticable.

The Geneva[6] outcome did, however, confirm the need for unity. So last week, Australia, France, New Zealand, Pakistan, the Philippines, Thailand, the United Kingdom, and the United States met together. We negotiated as full and equal partners and in the end signed a treaty for defense against both open armed attack and against internal subversion.

The treaty provides that, in the case of aggression by armed attack, each of the countries will act to meet the common danger. A council is established for consultation with regard to military and other planning.

The treaty recognizes also the danger of subversion and indirect aggression. It deals with this difficult problem more explicitly than any other security treaty that has been made. In this respect, the treaty represents an important forward step, because subversion and indirect aggression have been principal tools of international communism.

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[1] Delivered to the Nation over radio and television; Department of State *Bulletin*, Sept. 27, 1954, pp. 431–433.

[2] *Supra*, doc. 16.

[3] *Supra*, doc. 13.

[4] *Supra*, pp. 65–71.

[5] Address of Mar. 29, 1954; *infra*, pp. 2373–2381.

[6] For documents relating to the Geneva Conference on Korea and Indochina, see *supra*, pp. 750–788, and *infra*, pp. 2685–2693 and 2695–2701.

The treaty provides that if any party believes that the integrity of the treaty area is menaced by other than armed attack, the parties shall consult immediately to agree on measures which should be taken for the common defense. These measures will, of course, never involve intervention in the purely internal affairs of another state.

The United States was in a special position at Manila, because it was the only one of the signatories which did not have territorial interests in the treaty area. For the others, the pact was not only an anti-Communist pact but also a regional pact. Therefore, it dealt with any and all acts of aggression which might disturb the peace of the area. We stipulated on behalf of the United States, however, that the only armed attack in that area which we would regard as necessarily dangerous to our peace and security would be a Communist armed attack.[1]

Any significant expansion of the Communist world would, indeed, be a danger to the United States, because international communism thinks in terms of ultimately using its power position against the United States. Therefore, we could honestly say, using the words that President Monroe used in proclaiming his Doctrine,[2] that Communist armed aggression in Southeast Asia would, in fact, endanger our peace and security and call for counteraction on our part.

The treaty recognizes the importance of economic welfare. But it does not commit the United States to any "handout" program. We agree to cooperate in the development of economic measures which will promote economic and social well-being. Congress this year had the vision to see that there might be special needs in Southeast Asia. So, by the Mutual Security Act,[3] Congress has already provided a fund to be available in this area. Part of it will no doubt be spent to assist the free governments of Southeast Asia.

However, the treaty builds no economic walls. From an economic standpoint, such nations as Japan, Indonesia, Burma, Ceylon, and India remain important.

The treaty area is defined as the territory of the member states in Southeast Asia and the Southwestern Pacific. The protocol also extends the treaty benefits to Cambodia and Laos and the free territory of Viet-Nam. The Indochina armistice created obstacles to these three countries becoming actual parties to the treaty at the present time.[4] The treaty will, however, to the extent that is practicable, throw a mantle of protection over these young nations.

This Manila Pact represents a considerable accomplishment. I would have been glad if it had come earlier. But it is definitely better now than never.

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[1] See the "Understanding of the United States of America" which follows article XI in the treaty text; *supra*, p. 915.

[2] See President Monroe's message to Congress, Dec. 2, 1823; *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930), p. x.

[3] Act of Aug. 26, 1954; 68 Stat. 832–864. See also *infra*, pp. 3105–3140.

[4] See chapter III of the agreements on the cessation of hostilities in Viet-Nam and Cambodia (*supra*, pp. 757–759 and 769–771) and chapter II of the agreement on Laos (*supra*, pp. 777–778).

Of course, treaties are not self-operative. The signature of a treaty does not of itself have any miraculous effect. There have to be ratifications, and then there has to be a genuine will to carry out the treaty purposes.

I believe that the Manila Pact will, in fact, make a substantial contribution to preserve free governments in Southeast Asia and to prevent communism from rushing on into the Pacific area, where it would seriously threaten the defense of the United States.

We considered at Manila how to implement the treaty. One possibility was to create a joint military force. However, I explained that the United States' responsibilities were so vast and so farflung that we believed that we would serve best, not by earmarking forces for particular areas of the Far East, but by developing the deterrent of mobile striking power, plus strategically placed reserves.

This viewpoint was accepted. Thus, the treaty will not require us to make material changes in our military plans. These plans already call for our maintaining at all times powerful naval and air forces in the Western Pacific capable of striking at any aggressor by means and at places of our choosing. The deterrent power we thus create can protect many as effectively as it protects one.

In addition to agreeing to and signing the Manila Pact, there was also drawn up and signed a declaration known as the Pacific Charter. This proclaimed certain basic principles in relation to the right of peoples to self-determination, self-government, and independence.

This Pacific Charter was the idea of President Magsaysay of the Philippine Republic. He is a distinguished fighter for freedom against communism, and he felt it very important that our Manila Conference should make clear that we were seeking the welfare of the Asian peoples and we were not promoting "colonialism."

In my opening address to the Conference,[1] I emphasized that one of the most effective weapons of communism was to pretend that the Western Powers were seeking to impose colonialism on the Asian peoples. I said we must make it abundantly clear that we intend to invigorate independence. "Only then can the West and the East work together in true fellowship."

This Manila Conference faced up to that issue. It was the first conference where representative nations of Asia and of the West sat down together to work out a program of mutual security. The result was the Pacific Charter, which, in ringing terms, dedicates all the signatories to uphold the principles of self-determination, self-government, and independence for all countries whose peoples desire it and are able to undertake its responsibilities.

Whenever there arises in Asia a power that wants to conquer others, it adopts the motto: "Asia for the Asians." The Japanese, when they were dominated by the war lords, used that slogan. Today the Soviet and Chinese Communists have adopted it. They want to prevent the free countries of Asia from getting the help they need to preserve their independence.

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[1] *Supra*, doc. 30.

The Pacific Charter, on which the East and the West did meet, may well prove to be the most momentous product of the Conference.

The Communists' attitude was shown, during the Conference, by vicious propaganda attacks and even more significantly by new military activity in a nearby area. Apparently they hoped to intimidate the members of our Conference and perhaps prevent some from signing the security pact.

Efforts to intimidate by violence are typical of the Communist technique. When the Korean armistice negotiations were reaching their climax, the Chinese Communists opened their bloodiest assault against the United Nations position in Korea. Once it had been agreed to discuss peace in Indochina, the Communist forces of Ho Chi Minh, backed by Communist China, opened their murderous assault on Dien-Bien-Phu. And as the Manila Conference opened, the Chinese Communists opened their artillery fire on Quemoy, an island which has been part of Free China ever since the end of World War II and which was only about 400 miles distant from the Philippines.

This effort to intimidate the Manila Conference was a total failure. All of the participants signed the Manila Pact and the Pacific Charter with confidence that in so doing they were adding to their own security.

Now, the Soviet Foreign Office has just issued a lengthy statement denouncing the Manila Pact.[1] It particularly complains of article 4, which provides for united resistance to armed attack and political subversion. The Soviet statement says that the Chinese Communists also do not like the pact.

The Manila Pact is directed against no government, against no nation, and against no people. It is directed only against aggression. The fact that the Communists find that objectionable is tragically revealing of their ambitions.

The United States at Manila impressively showed national unity. The three plenipotentiary delegates to the Conference were H. Alexander Smith, Republican Senator from New Jersey; Michael J. Mansfield, Democratic Senator from Montana; and I. Both Senators are members of the Foreign Relations Committee and are thoroughly familiar with Far Eastern matters. Thus the Executive and the Senate and both political parties took part in the negotiation and the consummation of the treaty. I am greatly indebted to the contribution which both Senators made to the successful outcome of the Conference.

The theme of our Conference was "greater security through greater unity." We need that unity not only as among nations but also within our own Nation. It is healthy to have two political parties which compete for the right to represent the Nation. It is also important that that competition should stop at the water's edge so that, when we face others, we do so as a united nation. That has been our developing tradition, and the Manila Conference added to that tradition a new and a worthy chapter.

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[1] Statement published in *Izvestia*, Sept. 15, 1954; for an English translation of the text, see Supplement to *The News*, Oct. 1, 1954, pp. 5–7. Cf. the Sino-Soviet joint declaration of Oct. 12, 1954; *Documents on American Foreign Relations, 1954* (New York, 1955), pp. 324–326.

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32. REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, NOVEMBER 2, 1954 [1]

THE PRESIDENT,

I have the honor to submit to you, with a view to the transmission thereof to the Senate for its advice and consent to ratification, a copy of the Southeast Asia Collective Defense Treaty and the protocol thereto, both signed at Manila September 8, 1954. There is also transmitted, for the information of the Senate, a copy of the Pacific Charter signed and proclaimed at Manila on the same date. The charter is a declaration of principles and does not require the advice and consent of the Senate.

At your request Senator H. Alexander Smith and Senator Michael J. Mansfield of the Senate Foreign Relations Committee accompanied me to the Manila Conference as plenipotentiary delegates and signed, with me, the treaty, the protocol, and the Pacific Charter. I am greatly indebted to the contributions which they made to the successful negotiation of these instruments. This treaty is one in which the Executive and the Senate, through both political parties, cooperated all along the way.

The purpose of the Southeast Asia Collective Defense Treaty is the creation of unity for security and peace in Southeast Asia and the Southwestern Pacific. Eight nations—Australia, France, New Zealand, Pakistan, the Republic of the Philippines, Thailand, the United Kingdom, and the United States—participated in the negotiation as free and equal partners. It is a treaty for collective defense against both open armed attack and internal subversion. Although the United States has no direct territorial interest in Southeast Asia, we have much in common with the people and governments of this area and are united in the face of a common danger that stems from international communism.

As I stated in my address to the Nation on September 15,[2] the unity envisaged by the treaty is something that the United States has long sought. In 1951, on behalf of the preceding administration, I negotiated security treaties with Australia and New Zealand, with the Republic of the Philippines, and with Japan.[3] Since then a mutual defense treaty with Korea[4] has also been concluded, subject to exchange of instruments of ratification. Each of these treaties has a continuing role in the development of a Pacific security system, and each contemplated the development of a more comprehensive system of regional security in the Pacific area.

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[1] S. Exec. K, 83d Cong., 2d sess.

[2] *Supra.*

[3] *Supra,* docs. 16, 13, and 19.

[4] *Supra,* doc. 23.

Like the earlier treaties, the Manila Pact is in full conformity with the purposes and principles set forth in the Charter of the United Nations and is based on article 51, which recognizes the inherent right of individual or collective self-defense. It is directed against no government, against no nation and against no peoples.

The treaty consists of a preamble and 11 articles. The preamble sets forth the spirit and purposes of the treaty. It recognizes the sovereign equality of all the parties and reiterates their faith in the Charter of the United Nations and their desire to live in peace with all peoples and all governments. Reaffirming the principle of equal rights and self-determination of peoples, it declares the intention of the parties to strive by every peaceful means to promote self-government and to secure the independence of those countries whose people desire it and are able to undertake its responsibilities. Declaring publicly and formally their sense of unity, the parties give warning to any potential aggressor that they stand together in the area. The preamble expresses also the fundamental purpose of the treaty, i. e., the further coordination of efforts for collective defense for the preservation of peace and security.

Article I contains undertakings similar to those in comparable articles of other security treaties. By its terms the parties reaffirm their solemn obligations under the Charter of the United Nations to settle by peaceful means any international disputes in which they may be involved, and to refrain in their international relations from the threat or use of force inconsistent with the purposes of the United Nations. All of the parties to the treaty are members of the United Nations.

Article II incorporates in the treaty the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.),[1] which requires that regional and collective security arrangements joined in by the United States be based on continuous self-help and mutual aid. The parties pledge themselves by such means not only to maintain and develop their individual and collective capacity to resist armed attack but also to prevent and counter subversive activities directed from without against their territorial integrity and political stability. The treaty thus recognizes the danger of subversion and indirect aggression, which as we are keenly aware have been principal tools of international communism.

Article III recognizes the importance of free institutions and sound economies in achieving the objectives of peace and security. It is based on the realization that the opportunities of communism will diminish if through economic cooperation the free nations are able to develop their internal stability. The parties agree to cooperate in promoting economic progress and social well-being. This article does not commit the United States to any grant program. However, as I stated in my address of September 15, Congress had the vision to see this year that there might be special needs in Southeast Asia. By the Mutual Security Act,[1] Congress has already provided certain funds which may be used to assist the free governments of Southeast Asia.

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[1] Resolution of June 11, 1948; *A Decade of American Foreign Policy*, p. 197.

The article builds no economic walls against countries or territories not parties to the treaty. While a special relationship ought to prevail as between those countries which together assume serious commitments, the treaty countries are fully aware of the importance from an economic standpoint of such nations as Japan, Indonesia, Burma, Ceylon, India, Formosa, and other areas in the Far East and South Asia area. Article III does not preclude our continued economic cooperation with these and other countries whose economic welfare is deemed important to the stability of the treaty area as well as to our own well-being.

Article IV contains some of the most important provisions of the treaty. It sets forth the measures by which the parties agree to take action against armed aggression and against the danger of subversion and indirect aggression.

Under paragraph 1 of that article each of the parties recognizes that—

> aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes.

That language is based upon the Monroe Doctrine principle and follows the pattern of other United States security treaties in the Pacific. Each party recognizes in article IV, paragraph 1, that the armed attack referred to therein would be dangerous to its own peace and safety.

In the case of the United States, only a Communist armed attack can bring that treaty provision into operation. The understanding of the United States in this respect is embodied in the treaty itself. It reads as follows:

> The United States of America in executing the present Treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

This understanding reflects the special position of the United States as the only one of the signatories which does not have any territory in the treaty area. For the other signatories the treaty deals with any and all acts of aggression which might disturb the peace of the area. For the United States, however, it is expressly stipulated that the only armed attack which the United States would regard as necessarily dangerous to our peace and security would be a Communist armed attack. Recognition that Communist armed aggression in Southeast Asia would in fact endanger the peace and security of the United States, and call for counteraction by the United States, is based on the realization that the spread of international communism poses a threat to the United States as it does to the entire free world.

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[1] Act of Aug. 26, 1954; 68 Stat. 832–864. See also *infra*, pp. 3105–3140.

The language of paragraph 1 also provides for designation, by unanimous agreement, of other states or territories an armed attack against which will result in bringing certain of the treaty provisions into operation. I recommend that you inform the Senate that this provision is to be interpreted as requiring the advice and consent of the United States Senate to any agreement making such a designation.

The agreement of each of the parties to act to meet the common danger "in accordance with its constitutional processes" leaves to the judgment of each country the type of action to be taken in the event an armed attack occurs. There is, of course, a wide range of defensive measures which might be appropriate depending upon the circumstances. Any action which the United States might take would, of course, be in accordance with its constitutional processes.

Provision is made in the final sentence of the paragraph for reporting the measures taken against armed aggression to the Security Council of the United Nations in accordance with the obligation of the parties under article 51 of the United Nations Charter.

The danger from subversion and indirect aggression is dealt with in paragraph 2 of article IV, which meets this difficult problem more explicitly than any other security treaty we have made. It provides for immediate consultation by the parties whenever any party believes that the integrity of the treaty area is threatened by other than armed attack. The threat may be to the territorial inviolability or integrity, or to the sovereignty or political independence of any party in the treaty area or any other state or territory to which paragraph 1 of the article may from time to time apply. The paragraph contains no obligation beyond consultation, but the purpose of consultation is to agree on measures to be taken for the common defense. In its understanding with reference to article IV, paragraph 1, the United States affirms that in the event of any aggression or armed attack other than Communist aggression it will observe the consultation provisions of article IV, paragraph 2.

Paragraph 3 affirms the principle of equal rights and self-determination of peoples proclaimed by the treaty signatories in the Pacific Charter. It states the understanding of the parties that, except at the invitation or consent of the government concerned, no action shall be taken on the territory of any state designated under paragraph 1 or on any territory so designated.

To facilitate implementation of the treaty, article V establishes a Council, on which each party is to be represented. The Council will provide for consultation with regard to military and other planning as the changing situation in the treaty area may require.

No material changes in the military planning of the United States will be required by our participation in the Council. At present, United States plans call for maintaining at all times powerful naval and air forces in the Western Pacific capable of striking at any aggressor by means and at places of our choosing. As I explained at the

Manila Conference, the responsibilities of the United States are so vast and farflung that we believe we would serve best not by earmarking forces for particular areas of the Far East but by developing the deterrent of mobile striking power plus strategically placed reserves.[1] The Conference accepted that viewpoint, recognizing that the deterrent power we thus create can protect many as effectively as it protects one. However, other treaty members may deem it desirable to make their contribution toward strengthening the defense of the area by specific force commitments for that purpose.

Article VI makes clear that the obligations of the parties under the treaty do not affect in any way their obligations under the United Nations Charter. It recognizes the primary responsibility of the United Nations in maintaining international peace and security. Each party declares that it has no existing international obligations in conflict with the treaty and undertakes not to enter into any international engagements in conflict with it.

Article VII takes into account that not all countries whose interests now or in the future may be bound up with the Southeast Asia Collective Defense Treaty are in a position to become parties at this time. It accordingly provides that the parties, by unanimous agreement, may invite any other state in a position to further the objectives of the treaty and to contribute to the security of the area, to accede to the treaty at a later date. I recommend that this article be interpreted as requiring the advice and consent of the Senate for the United States to join in the "unanimous agreement" required for the invitation of new parties.

Article VIII defines the "treaty area" as the general area of Southeast Asia, including the entire territories of the Asian parties, and the general area of the Southwest Pacific not including the Pacific area north of 21 degrees 30 minutes north latitude. Provision is made for amendment of the treaty area by unanimous agreement. On the part of the United States, I recommend that Senate advice and consent be required for such agreement.

Article IX assigns to the Republic of the Philippines the customary duties as depositary of the treaty. Paragraph 2 provides that the treaty shall be ratified and its provisions carried out by the parties in accordance with their respective constitutional processes. The association of the United States in collective arrangements "by constitutional process" was recommended by the Vandenberg resolution and has been the basis for all of our security treaties.

Paragraph 3 of article IX provides that deposit of ratifications by a majority of the signatories shall bring the treaty into force between the states which have ratified it. With respect to each other state it shall come into force on the date of deposit of its ratification.

According to article X the treaty has indefinite duration, but any party may cease to be a party 1 year after its notice of denunciation has been given. It is hoped that the cooperation for peace and security which is the objective of this treaty will be permanent.

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[1] See *supra*, doc. 30.

However, since the conditions in the treaty area are subject to fluctuation, a flexible provision in respect to duration seems desirable.

Article XI is a formal article regarding the authentic language texts of the treaty.

The protocol extends the benefits of articles III and IV to the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam. The Indochina situation was considered by some of the treaty signatories as creating obstacles to these three countries becoming actual parties to the treaty at the present time. By designating them as states or territories for the purposes of article IV, the protocol assures that armed attack or indirect aggression against Cambodia, Laos, or the territory under Vietnamese jurisdiction will bring into operation the obligations of the parties under that article. It thus throws over those new nations a certain mantle of protection. The protocol also extends to those countries eligibility in respect of the economic measures, including technical assistance, contemplated by article III. It thus recognizes that economic progress and social well-being in these areas are essential to the economic welfare of the whole area and a vital force in combating the opportunities of communism.

In addition to the treaty and protocol, there was also drawn up and signed at the Manila Conference a declaration known as the Pacific Charter. The charter was the idea of President Magsaysay of the Republic of the Philippines, who emphasized the importance of making clear that the treaty signatories were seeking the welfare of the Asian peoples and were not promoting "colonialism." As I said in my opening address to the Conference, one of communism's most effective weapons is to pretend that the Western Powers are seeking to impose colonialism on the Asian people. I said then that we must make abundantly clear our intention to invigorate independence.

The Pacific Charter proclaims certain basic principles in relation to the right of peoples to self-determination, self-government, and independence. It dedicates all the signatories to uphold these principles for all countries whose people desire it and are able to undertake its responsibilities. In the Pacific Charter the West and the East have joined in a pledge of fellowship that supports and invigorates the basic principles which underlie the Southeast Asia Collective Defense Treaty and protocol.

In view of the importance of the Southeast Asia Collective Defense Treaty and protocol as a deterrent to Communist and other aggression and as a bulwark in the maintenance of peace and security in the Pacific area, it is hoped that the treaty including the understanding of the United States contained therein, together with the protocol, will be given early and favorable consideration by the Senate.

Respectfully submitted.

JOHN FOSTER DULLES.

33. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, JANUARY 25, 1955[1]

The committee on Foreign Relations, to whom was referred the Southeast Asia Collective Defense Treaty (Ex. K, 83d Cong., 2d sess.) and the protocol thereto signed at Manila on September 8, 1954, reports both instruments to the Senate, and recommends that its advice and consent to ratification be given at an early date.

1. Main Purpose of the Treaty and Protocol

This treaty constitutes an important step in the evolution of United States policy to create a system of collective security in the Western Pacific area. It is the latest addition to the protective network of mutual defense treaties which have been concluded by the United States with Japan, Australia and New Zealand, the Philippines, and Korea.[2]

Designed to promote security and to strengthen the fabric of peace in southeast Asia and the Southwest Pacific, the treaty is intended to deter aggression in that area by warning potential aggressors that an open armed attack upon the territory of any of the parties will be regarded by each of them as dangerous to its own peace and safety (art. IV, par. 1). In such circumstances the parties agree to meet the common danger in accordance with their constitutional processes.

They also agree to consult on measures to be taken for the common defense, whenever the territorial integrity or political independence of any of the parties is threatened in any way other than by armed attack, or by any fact or situation which might endanger the peace of the area (art. IV, par. 2). Internal subversion directed from without would be an example of one such fact or situation calling for consultation.

The treaty is thus a mechanism for collective defense against both open armed attack and internal subversion, and it is in this latter respect primarily that it differs from the previous bilateral and trilateral security treaties in the Pacific. As with the Korean Mutual Defense Treaty (Ex. A, 83d Cong., 2d sess.) and similar defense treaties, the parties to the treaty reaffirm their solemn obligation under the Charter of the United Nations to settle their disputes by peaceful means and to refrain from the threat or use of force in their international relations (art. I). The treaty pledges them to maintain and develop their individual and collective capacity to resist armed attack, and, further, to prevent and counter subversive activities directed from without against their territorial integrity and political stability (art. II). It provides for cooperation in developing measures, including technical assistance designed to promote the economic progress and social well-being of the parties (art. III), for immediate consultation whenever their territorial integrity or political independence is threatened by other than armed attack or any fact endangering the peace (art. IV, par. 2), and for the creation of a council to consider matters pertaining to the implementation of the treaty (art. V). Other articles define the area to which the treaty shall apply (art. VIII) and the circumstances under which other states may be invited to accede to its terms (art. VII). Finally, an understanding is incorporated in the text of the instrument itself by which the United States declares that the armed aggression referred to in article IV as dangerous to its peace and security would be Communist aggression.

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[1] S. Exec. Rept. No. 1, 84th Cong., 1st sess.

[2] *Supra*, docs. 19, 16, 13, and 23.

The protocol designates the States of Laos and Cambodia and the free territory under the jurisdiction of the State of Vietnam as states or territories for the purposes of article IV, thus bringing into play the obligations of the parties with respect to armed attack and indirect aggression against this addition to the "treaty area". At the same time those countries are made eligible for the kind of economic measures and technical assistance contemplated in article III of the treaty.

2. Background of the Treaty

At the time that negotiations were begun in 1950 leading to the Japanese security treaty and to the series of separate security pacts in the Pacific area, it was hoped that a rather broad type of collective security arrangement might be worked out. It was not then possible to realize this goal, and further action on a multipartite protective umbrella over Southeast Asia had to be deferred as long as active hostilities continued in Indochina. The defense treaties with Japan, the Philippines and Australia and New Zealand, which were approved by the Senate on March 20, 1952, were not regarded as ultimate ends in themselves, but were expressly conceived as measures taken "pending the development of a more comprehensive and effective system of regional security" in the Pacific area. Following an address by President Eisenhower on April 16, 1953,[1] in which he advocated "united action for Southeast Asia", Secretary of State John Foster Dulles sought during the next year to complete a pact covering this area. Until after the Geneva armistice agreements [2] were concluded, however, circumstances made that impracticable.

In the course of hearings on the Korean Defense Treaty (Ex. A, 83d Cong., 2d sess.) the committee had stated its conviction that a multilateral agreement for the Pacific, comparable to the North Atlantic Treaty, would be desirable. Secretary Dulles, however, pointed out that substantial cultural, political, and geographical differences existed among the Pacific countries which distinguished this area from Europe and constituted serious obstacles to achieving the desired development at an early date. The committee acknowledged these difficulties but nevertheless expressed the hope that the Department of State would continue its efforts to encourage the nations of the Pacific to work together for their regional and collective self-defense.[3]

After 4 months of negotiations between the United States and other governments, it was announced on August 14, 1954 [1] that upon the invitation of the Government of the Philippines, the Foreign Ministers of the Governments concerned had agreed to meet on September 6 to consider measures to further their common objectives. At the request of the President, two members of the committee, Senator H. Alexander Smith and Senator Michael J. Mansfield, accompanied Secretary Dulles to Manila as plenipotentiary delegates and, together with him, signed the treaty, the protocol and a "Pacific Charter" which was also adopted at the conference. The charter, a declaration of principles dedicating the signatory governments to the ideals of self-determination and independence, does not require ratification. The treaty and protocol were signed on September 8, 1954, and transmitted to the Senate for its advice and consent on November 10, 1954.[2]

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[1] *Supra*, pp. 65–71.

[2] Cease-fire agreements of July 20, 1954; *supra*, pp. 750–785.

[3] See *supra*, doc. 26.

3. COMMITTEE ACTION

Because the administration was particularly concerned that the last session of Congress should not close without some preliminary consideration being given to the treaty, the committee decided to act with unusual dispatch. Accordingly, the first public hearing was held on November 11, 1954, the morning after the President had transmitted the pertinent documents to the Senate.[3] There was no intention to press for further action on the treaty at that time; but it was hoped that such a demonstration of the Government's continued interest in the pact would provide additional impetus to other signatories to proceed promptly with their own ratification. At the hearing of November 11, extended testimony was heard from Secretary Dulles on the various legal and political implications of the treaty, and, more briefly, from Adm. Arthur C. Davis, Director of the Office of Foreign Military Affairs speaking on behalf of the Department of Defense.

After the 84th Congress had convened, the committee considered the treaty in executive session on January 13, 1955, when additional testimony was received from the Secretary of State. This second appearance of Mr. Dulles was useful in bringing the committee up to date on events bearing upon the treaty since its transmittal to the Senate, and in reviewing for the committee and its two new members (Senators Barkley and Morse) the underlying conditions deemed by the Secretary of State to justify expeditious action.

A second public hearing was held on January 19.[4] Hon. Hamilton Fish, former Congressman from New York, representing the American Political Action Committee, Miss Freda Utley, on behalf of the American China Policy Association, and Mrs. Agnes Waters appeared and were heard.

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[1] See the statement released to the press by the Department of State on this date; Department of State *Bulletin*, Aug. 23, 1954, p. 264.

[2] S. Exec. K, 83d Cong., 2d sess.

[3] See *Hearings Before the Committee on Foreign Relations, United States Senate, Eighty-third Congress, Second Session, on Executive K, 83d Congress, 2d Session. the Southeast Asia Collective Defense Treaty and the Protocol Thereto, Both Signed at Manila on September 8, 1954*, part 1.

[4] *Ibid.*, Part 2.

On January 21, the committee agreed, by a vote of 14 to 1, to report both the treaty and the protocol to the Senate for final action.

The committee desires to commend the executive branch for its efforts to keep the committee thoroughly informed during the course of the negotiations. In the preliminary discussions as well as at the conference itself a spirit of cooperation was exhibited between the legislative and executive branches which contributed greatly to the satisfactory outcome of the proceedings.

4. Summary of Treaty Provisions

The basic design of the treaty is similar to that of defense treaties previously concluded with Korea, the Philippines, and the ANZUS countries, but with several important differences.

In the preamble, the parties reaffirm their sovereign equality, their faith in the United Nations Charter, their desire to live in peace with all peoples and all governments and the intentions expressed in the Manila Charter to uphold the principles of equal rights and self-determination of peoples. The reaffirmation of these principles is accompanied by a declaration that the parties will strive to promote self-government and to secure independence for all countries whose peoples desire it and are able to undertake its responsibilities. The preamble further sets forth as the fundamental purposes of the treaty, coordination of the parties' efforts for collective defense and the preservation of security, warning potential aggressors that the signatories stand together. Thus the character of the instrument as a peaceful arrangement for defense against aggression is plainly marked.

Article I reproduces the undertaking found in other security treaties to settle any international disputes in which the parties may be involved, by peaceful means, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations. This article takes cognizance of the status of all signatories as members of the United Nations.

Article II embodies the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.) characteristic of the other mutual security treaties. It pledges the parties, separately and jointly, through self-help and mutual aid to maintain and develop their individual and collective capacity not only to resist armed attack; but also—

> to prevent and counter subversive activities directed from without against their territorial integrity and political stability.

This recognition of the dangers of subversion and indirect aggression introduces an element not found in the system of defense agreements which preceded the Southeast Asian Treaty; in none of the prior pacts is there a provision for countering subversion, although the Japanese Security Treaty does contemplate the use of United States forces to put down large-scale riots and disturbances instigated by an outside power (art. I). Article II, therefore, seeks to stimulate positive action to defeat the erosive devices which international communism has utilized to destroy the freedom and independence of nations.

Under article III the parties agree to cooperate in developing economic measures, including technical assistance, designed to promote their economic progress and social well-being. This is accompanied by an undertaking to strengthen the parties' free institutions. No comparable provision appears in any of the previous defense treaties. It is founded upon the conviction that if the free nations can develop their internal stability through economic cooperation, the ground for Communist penetration will be rendered less fertile. However, the article does not commit the United States to a specific aid program, nor does it preclude continued economic cooperation with any country whose economic welfare is important to our own well-being and the stability of the treaty area.

5. OBLIGATIONS UNDER ARTICLE IV

Article IV contains the activating, operative core of the treaty. Paragraph 1 corresponds generally to article III of the Korean Treaty and article V of the Philippine and Australia-New Zealand Treaties in the recognition by each party that—

> aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety.

In such circumstance, each signatory agrees that—

> it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

The obligation of the United States under article IV, paragraph 1, is limited by virtue of an understanding in the treaty to a Communist armed attack. A significant difference likewise exists between the corresponding article of the Philippine and the Australia-New Zealand pacts, and the Southeast Asia Treaty in this respect: article V of the first two treaties is limited in its application to an armed attack—

> on the metropolitan territory of any of the parties, or on the island territories under its jurisdiction in the Pacific or on its armed forces, public vessels or aircraft in the Pacific.

On the other hand, article IV of the treaty now being considered extends to what is described in the instrument as "the treaty area" (art. VIII), which is dealt with in more detail below. This "treaty area" may be enlarged by the unanimous agreement of the parties.

Paragraph 2 of article IV incorporates the language of article 6 of the Inter-American Treaty of Reciprocal Assistance signed at Rio de Janeiro in 1947.[1] Paragraph 2 is worded as follows:

> If, in the opinion of any of the Parties, the inviolability or the integrity of the territory or the sovereignty or political independence of any Party in the treaty area or of any other State or territory to which the provisions of paragraph 1 of this Article from time to time apply is threatened in any way other than by armed attack or is affected or threatened by any fact or situation which might endanger the peace of the area, the Parties shall consult immediately in order to agree on the measures which should be taken for the common defense.

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[1] Treaty of Sept. 2, 1947; *supra*, doc. 1.

Article IV then concludes with a third paragraph specifically precluding any action on the territory of any state designated by unanimous agreement under paragraph 1 thereof except at the invitation or by consent of the government concerned.

It will be observed that the obligation of the parties under paragraph 2 of this article is not comparable to the obligation contained in paragraph 1. The latter contains an undertaking to "act to meet the common danger" through each government's constitutional processes, in case of an armed attack within the purview of the treaty. But if the threat to territorial integrity or political independence arises from something other than an armed attack (i. e., subversion), the only obligation of the parties is to "consult" with each other on the measures which should be taken for the common defense. There is no requirement for reporting such measures to the Security Council as under paragraph 1.

6. OTHER PROVISIONS

By article V of the treaty, a Council is established on which each party is represented, to consider matters pertaining to implementation of the treaty and to consult on any military or other planning which might be required by the situation prevailing in the treaty area.

Article VI records the declaration of the parties that the Southeast Asia Treaty shall not be construed as affecting the rights and obligations of the parties under the Charter of the United Nations, or the responsibility of that body for maintaining international peace and security. Each signatory likewise declares it is not party to any other instrument in force which would conflict with this treaty, and further undertakes not to enter any future engagement which would be inconsistent therewith.

Article VII provides for accession to the treaty by third states which might be in position to advance its objectives and contribute to the security of the area described. Such accession is affected by an invitation extended only with the unanimous agreement of the parties.

Article VIII defines the "treaty area" to which the obligations of the parties apply as the general area of southeast Asia, including the entire territories of the Asian parties, and the general area of the southwest Pacific, not including the Pacific area north of 21 degrees 30 minutes north latitude. It provides also for amendment of the treaty area by unanimous agreement. This element of flexibility again differentiates the treaty from other defense treaties in the Pacific.

Article IX designates the Government of the Philippines as depository of the treaty and declares that ratification of the instrument and the execution of its provisions shall be in accordance with the parties' constitutional processes.

Under article X the treaty is to remain in force indefinitely, subject to a right of denunciation by any party effective 1 year after notice has been given to the Philippine Government.

Finally, there is embodied in the text of the treaty itself an understanding, which binds all signatories, that only in the case of a Communist armed attack will the obligation of the United States under article IV, paragraph 1, come into effect.

7. Scope of the United States Commitment: The Treaty Understanding

The obligation of the United States to take action in the event of an armed attack in the treaty area or against any duly designated State or territory is qualified by the understanding referred to above, which is worded as follows:

> The United States of America in executing the present treaty does so with the understanding that its recognition of the effect of aggression and armed attack and its agreement with reference thereto in Article IV, paragraph 1, apply only to communist aggression but affirms that in the event of other aggression or armed attack it will consult under the provisions of Article IV, paragraph 2.

In other terms, the only armed aggression which the United States declares, under this treaty, to be dangerous to its own peace and safety would be a Communist aggression. During the Manila Conference there was considerable discussion whether the treaty as a whole should be directed exclusively against such aggression, or whether it should deal with any type of aggression. Other countries were unwilling to limit the treaty as advocated by the United States, and the issue was resolved by including in the text of the treaty the declaration of understanding quoted above. The understanding reflects the special position of the United States as the only treaty member which does not have any territory of its own in the protected area. It also establishes that our concern with that area is not primarily with local quarrels, but with the spread of international communism as a threat to the United States and the rest of the free world.

For the remaining signatories, however, the treaty deals with any and all acts of aggression which might disturb the peace of the area, and in such cases the United States agrees to consult with the other parties as provided for in paragraph 2 of article IV.

8. Application of the Treaty to Subversive Acts

The threat of Communist subversion of free governments was first formally recognized in treaty terms in the security pact with Japan, signed on September 8, 1951. That pact provided that United States forces could be utilized for—

> assistance given at the express request of the Japanese Government to put down large-scale riots and disturbances in Japan, caused through instigation or intervention by an outside power or powers.

The committee report on the treaty (Ex. Rept. No. 2, 82d Cong., 2d sess., February 14, 1952)[1] noted that—

> this right to act against foreign-inspired insurrection is essential to the security of United States forces in Japan and of Japan itself.

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[1] *Supra,* doc. 22.

The problem of Communist subversion is dealt with more explicitly in the Southeast Asia Collective Defense Treaty.

As previously noted, article II requires the parties to maintain and develop their capacity to resist subversive activities directed from without against their territorial integrity and political stability. This injunction is followed by an undertaking of the parties to consult together on the measures necessary to meet threats of that kind as well as any fact or situation other than an armed attack which might endanger the peace of the area (art. IV, par. 2).

The threat of subversion has been particularly acute in the region of southeast Asia where the Communists have attempted in several countries to capture revolutionary or anticolonial movements. The case of the Viet Minh is an instance where they succeeded. The Huk revolution in the Philippines was suppressed, but Communist subversion in Malaya and the threat in Thailand present problems which cannot be ignored.

The committee believes that it is necessary to include a provision of this kind in the treaty. Since the end of World War II the threat to the free world has come more often in the form of indirect subversion than in direct aggression, and freedom lost by subversion may be as difficult to retrieve as that lost by force.

The obligation of the parties to "consult immediately in order to agree on the measures which should be taken for the common defense" under article IV, paragraph 2, was clarified by Secretary Dulles in these terms:

> If there is a revolutionary movement in Vietnam or in Thailand, we would consult together as to what to do about it, because if that were a subversive movement that was in fact propagated by communism, it would be a very grave threat to us. But we have no undertaking to put it down; all we have is an undertaking to consult together as to what to do about it.[1]

In response to further questioning by the committee, the Secretary gave assurances that if any action were to be taken as the result of such consultation it would be in accordance with our constitutional processes.

When Secretary Dulles testified before the committee in November 1954, he expressed the hope that there would be an early meeting of the signatories "at which we will begin to think of ways and means that might be made available to combat this threat of subversion."[2] Such a meeting has now been scheduled for February 23, 1955.

9. DIFFERENCES BETWEEN NATO AND THE SOUTHEAST ASIA TREATY

A number of significant differences exist between the present security pact and the North Atlantic Treaty Organization. The two treaties differ substantially both in their structural approach to defense against aggression, and in the principles which condition the obligations of the United States to act.

To begin with, the Southeast Asia Treaty does not contemplate anything like a joint military force with a joint headquarters. There has been an unfortunate tendency in some quarters to refer to this treaty as SEATO,[1] which immediately conjures up the image of an organization similar to the North Atlantic Treaty Organization (NATO). During the hearings Secretary Dulles took pains to negate any such implication in the present treaty. Pointing out that NATO, in the case of the North Atlantic Treaty, was designed to build up a defensive force on the continent of Europe which itself would be sufficient to resist attack by the Red armies, the Secretary added:

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[1] Statement of Nov. 11, 1954; *Hearings*, part 1, p. 28.

[2] *Ibid.*, p. 14.

> We do not intend to dedicate any major elements of the United States Military Establishment to form an army of defense in this area. We rely primarily upon the deterrent of our mobile striking power. That we made clear to our associates in the treaty and that is our policy.
>
> It would involve, in the opinion of our military advisers . . . an injudicious overextension of our military power if we were to try to build up that kind of an organization in southeast Asia.
>
> We do not have the adequate forces to do it, and I believe that if there should be open armed attack in that area the most effective step would be to strike at the source of aggression rather than to try to rush American manpower into the area to try to fight a ground war.[2]

As noted previously, another distinguishing feature of the treaty is that it includes a provision of major importance against subversive attempts by international communism to destroy the territorial integrity or political independence of any party to the treaty. In this respect the treaty also differs from prior security pacts in the Pacific.

10. THE "MONROE DOCTRINE" FORMULA

More fundamental than either of these differences is the employment in the Southeast Asia Treaty of what Secretary Dulles has called the Monroe Doctrine formula, as distinct from the more far-reaching commitment contained in the North Atlantic Treaty.[3] In article IV, paragraph 1, of the Southeast Asia Treaty, as in article III of the Korean Treaty and article IV of the Philippine and Australia-New Zealand pacts, each party recognizes that the armed attack referred to therein "would endanger its own peace and safety" and agrees to meet the common danger in accordance with its constitutional processes. By contrast, the North Atlantic Treaty had incorporated the principle that an attack upon one is tantamount to an attack upon all the other parties. Under this concept even if an attack were not one made against the territory of the United States itself, such an attack would nevertheless be so regarded. The provision gave rise to an extensive constitutional debate in the Senate, centering around the effect it might have on the President's powers to involve this country in warfare without the approval of Congress.[4]

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[1] Southeast Asia Treaty Organization.

[2] *Hearings*, part 1, p. 17.

[3] *Hearings*, part 1, pp. 13 and 21.

[4] For Senate debate on the North Atlantic Treaty, see *Congressional Record*, vol. 95, pp. 8744–8745, 8812–8820, 8891–8904, 9011–9033, 9090–9120, 9122–9123, 9127, 9190–9214, 9251–9288, 9334, 9352–9381, 9426–9464, 9466–9470, 9534–9537, 9552–9604, 9623–9650, 9767–9828, 9879–9916.

Because of that constitutional controversy, Secretary Dulles believed it preferable to adopt President Monroe's language when he announced in 1823 that any extension of the European system to this hemisphere would be considered by the United States as dangerous to our peace and safety. The formula was therefore used by Mr. Dulles when he negotiated the three earlier Pacific defense treaties. In his view—

> the practical difference between the two [approaches] from the standpoint of . . . giving security to the other parties was not appreciable, and . . . it was better to avoid a formula which would reopen the constitutional debate . . . as to the relative powers of the President and the Congress under these different formulas.[1]

In its report on the Korean Defense Treaty (Ex. A, 83d Cong., 2d sess.),[2] the committee noted that the Monroe Doctrine formula—

> permits the United States to take any action we deem appropriate by our constitutional processes, and gives adequate assurance of support to the other country which may be the victim of an attack. It has the additional advantage of never having been challenged throughout our history, from the constitutional standpoint, as altering the balance of power between the President and Congress.

These observations apply with equal relevance to the Southeast Asia Treaty.

11. RELATIONSHIP TO THE UNITED NATIONS

The relationship of the Southeast Asia Collective Defense Treaty to the United Nations Charter is determined by four references in the treaty.

In the preamble, the parties reiterate their faith in the charter of the United Nations and the principle of equal rights and self-determination of peoples. Similar provisions are contained in the mutual defense treaties concluded with other Pacific nations.

By article I—

> The Parties undertake, as set forth in the Charter of the United Nations, to settle any international disputes in which they may be involved by peaceful means in such a manner that international peace and security and justice are not endangered, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

This provision is similar to articles in the Philippine, Australia-New Zealand, and Korean treaties. It reaffirms the United Nations Charter obligations of the signatories of the pending treaty, but in no way either enlarges or diminishes our obligations thereunder. When questioned on the point, the Secretary declared:

> I can say categorically, sir, that in my opinion this neither adds one jot or tittle nor subtracts one jot or tittle, from our objective as expressed in the Charter of the United Nations.[3]

The most important reference to the United Nations Charter is in article IV, paragraph 1, which obliges the parties to meet a common danger in the treaty area in accordance with their constitutional processes. The paragraph then says:

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[1] *Hearings*, part 1, p. 21.

[2] *Supra*, doc. 26.

[3] *Hearings*, part 1, p. 31.

> Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

This language relates the treaty directly to article 51 of the United Nations Charter which provides:

> Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Similar references to the United Nations Charter are to be found in the treaties with the Philippines, and with Australia and New Zealand.

Discussing this article before the committee, Secretary Dulles emphasized that it was not founded upon the clauses in article 52 of the charter concerning regional arrangements:

> I would say . . . that it comes under the collective security provisions of article 51 rather than the regional provisions of article 52. Article 51 is a provision that nothing contained in the charter shall deprive any of the states from the individual or collective right of self-defense. That is the provision we are operating under rather than the regional provision, one reason being that under a regional organization, no enforcement measures can be taken without the prior approval of the Security Council, where the Soviet Union has a veto, and we would not want to have an organization where action could be vetoed by the Soviet Union.[1]

In other words, tying the treaty to article 51 of the charter obligates the United States and the other parties to report certain activities under the treaty to the Security Council. It does not, however, require the parties to await the prior approval of that Council before taking action. The committee and the Senate, when they approved the earlier defense treaties in the Pacific area, accepted this relationship between article 51 of the charter and the mutual defense treaties.

In a final reference to the United Nations Charter (in art. VI) the parties expressly declare that the present treaty does not and shall not be interpreted as affecting in any way their obligations under that document. This again corresponds to similar articles in the Australia-New Zealand, and the Philippine treaties.

12. The Treaty Area

As noted earlier in this report, the general pattern of the Southeast Asia Treaty is similar to the other defense pacts the United States has concluded in the Pacific, apart from several differences which have been underscored. Another innovation of the treaty consists in the flexibility of the region subject to protection. The treaty starts out with a geographical delineation embracing most of the territory of the signatories and the Pacific Ocean area south of 21 degrees 30 minutes—i. e., a line running north of the Philippines. Although some of the parties do have territories north of that line, it was felt that inclusion of these would not be desirable. Broadly speaking, the basic area involved comprises Pakistan; Thailand; Laos, the Free Territory of Vietnam and Cambodia (by protocol); Malaya; Australia and New Zealand; and the Philippines. Hong Kong is excluded because of the limiting clause even though the United Kingdom is a party.

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[1] *Hearings*, part 1, p. 17.

On the other hand, it has already been observed that article VIII, after defining the geographical zone of application, contemplates the possibility of enlargement or modification of the treaty area by future unanimous agreement of the parties. Such action has in fact been taken in the protocol which accompanies the present treaty.

13. THE PROTOCOL TO THE TREATY

By a protocol signed on the same date as the treaty, the treaty area was further defined so as to bring in Laos, Cambodia, and the Free Territory of Vietnam as areas which, if attacked, would fall under the protection of the instrument. It was hoped that by this action, aggression against these states might be deterred. None of these countries is a party to the Manila pact because, after the Geneva armistice agreements on Indochina, a question was raised as to whether the Associated States could properly join such a pact. Since the provisions of the armistice are complicated and in certain respects rather ambiguous, some of the parties thereto thought it would not be desirable to raise that question at a time when the armistice was still in the process of being carried out. However, the Associated States concluded that whether or not they ever became parties to the treaty, they would be pleased to have its mantle of protection thrown over them.

14. UNANIMOUS AGREEMENT REQUIRED TO ENLARGE TREATY COVERAGE

Provision is made in three articles of the treaty for modification of its terms by unanimous agreement. Thus, article IV, paragraph 1, as well as article VII, contemplates that the treaty area may be extended by the parties to any state or territory "which the parties by unanimous agreement may hereafter designate." Article VII refers to the accession of additional states "by unanimous agreement of the parties." To avoid the possibility of any misunderstanding on the significance of this clause, the President informed the Senate[1] that the provisions with respect to designation of new territories and membership are to be construed as requiring the Senate's advice and consent. In other words, it is not enough that the executive branch should acquiesce in the addition of new members or in the modification of the treaty area, but these matters must also be brought before the Senate.

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[1] Message to the Senate of Nov. 10, 1954; S. Exec. K, 83d Cong., 2d sess.

The point was reemphasized during the hearings. Speaking of the addition of new members, Mr. Dulles said:

> I would assume that the same practice would prevail here as prevails with relation to the North Atlantic Treaty. The language is the same, and it was agreed between the Executive and the Senate at the time of the North Atlantic Treaty that if additional states came in that would require an amendment of the treaty or a protocol to the treaty, on which the advice and consent of the Senate would be sought.
>
> We would interpret this language in the same way that similar language in the North Atlantic Treaty is interpreted, namely, as requiring Senate action in that event.[1]

15. Constitutional Processes

In the course of the hearings on January 13 [19], the committee gave consideration to a suggestion by one of the witnesses that a reservation be attached to the treaty which would prohibit the use of United States ground, air, or naval forces in any defense action unless Congress, by a declaration of war, consented to their use against Communist aggression.[2] This proposal led to a searching discussion in executive session. It was finally rejected as throwing open the entire controversial topic of the relative orbit of power between the executive and the legislative branches. It had been for this very reason, as noted above, that the executive branch adopted the "constitutional processes" formula. When pressed for an indication of what the phrase comported, Mr. Dulles assured the committee that those words were used with the understanding that the President would come to Congress in case of any threat of danger—

> unless the emergency were so great that prompt action was necessary to save a vital interest of the United States.

Except in that event—

> the normal process would be to act through Congress if it were in session, and if not in session to call Congress.

The committee ultimately resolved that it would serve no useful purpose to seek to develop the meaning of "constitutional processes" beyond this statement of Mr. Dulles. In that connection, it is recalled that the committee, referring to the use of the same phrase in the North Atlantic Treaty, observed in its report:[3]

> The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander in Chief of the Armed Forces or impair the full authority of Congress to declare war (Ex. Rept. No. 8, 81st Cong., 1st sess.).

16. Mutual Security Assistance

Article II of the treaty pledges the parties to develop their individual and collective capacity to resist armed attack. By article

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[1] *Hearings*, part 1, p. 18.

[2] *Ibid.*, pt. 2, p. 47 (Hamilton Fish).

[3] *Supra*, doc. 6.

III they agree to strengthen their free institutions and promote economic progress and social well-being in their areas.

This language directed the committee's attention to the relationship between the treaty and the Mutual Security Act of 1954[1] under which $700 million was appropriated for expenses necessary for the support of the forces of nations in the area of southeast Asia and for other expenditures to accomplish the policies and purposes declared in the act. Development and technical assistance of lesser amounts were also provided in that act.

In his report to the President, the Secretary wrote with reference to article III that it "does not commit the United States to any grant program." The committee wishes to confirm this assurance. The treaty places no moral or legal obligation on the United States to give vast sums of military, economic or technical assistance to nations in the area. The Mutual Security Act of 1954 and future authorizations of such nature are to be presented on their own merits and must be justified by a judgment of the Congress as to what action may be in our national interest at the time.

The committee inquired into possible future aid programs. It was informed that the scope and nature of these programs have not been decided and await a report of General Collins on the situation in the Associated States of Indochina. In this connection, the committee invites the attention of the Senate to the following statement by the Secretary of State:

> As I said at a press conference[2] . . . the possibility of usefully spending vast sums of economic money in this area has not been demonstrated.
>
> . . . .
>
> In this part of the world the problem is to create something that is totally new, and I am inclined to think that while the problem certainly needs our very best thought, the finding of ways and means to help is the most important first thing. The problem needs to be tackled first from that standpoint rather than the standpoint of first appropriating vast sums of money and then trying to think later on how it can be spent with advantage.[3]

17. OUR MILITARY COMMITMENT

The committee, conscious of our other treaty obligations in the Pacific which, if the present treaty and protocol are ratified, will encompass 12 other nations, was concerned lest the United States might be overextending itself. It raised this question with the Secretary of State by asking for information concerning possible plans to create local defensive forces in the area. For the information of the Senate, his full statement on that question is reprinted here.

> . . . it is not the policy of the United States to attempt to deter attack in this area by building up a local force capable itself of defense against an all-out attack by the Chinese Communists if it should occur. We do not expect to duplicate in this area the pattern of the North Atlantic Treaty Organization and its significant standing forces. That would require a diversion and commitment of strength

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[1] Act of Aug. 26, 1954; 68 Stat., pp. 832–864. See also *infra*, pp. 3105–3140.

[2] News conference of Nov. 9, 1954; Department of State press release 634.

[3] *Hearings*, part 1, p. 14.

which we do not think is either practical or desirable or necessary from the standpoint of the United States.

We believe that our posture in that area should be one of having mobile striking power, and the ability to use that against the sources of aggression if it occurs. We believe that is more effective than if we tried to pin down American forces at the many points around the circumference of the Communist world in that area.

It may very well be that other countries of the area will want to dedicate particular forces for the protection of the area under this treaty. But we made clear at Manila that it was not the intention of the United States to build up a large local force including, for example, United States ground troops for that area, but that we rely upon the deterrent power of our mobile striking force.[1]

18. THE PACIFIC CHARTER

At the same time the treaty and protocol were negotiated at Manila, the governments there represented drew up and signed a declaration known as the Pacific Charter. This was a proclamation of general principles and ideals by the delegates to the conference expressing their deep interest in the further development of freedom and independence in the area.

In spirit, the Pacific Charter is not unlike the Atlantic Charter of 1942 [2] in which the postwar aims of the allied powers were set forth. Appealing to the "highest principles of justice and liberty", the delegates to the Manila Conference proclaimed that they "uphold the principle of equal rights and self-determination of peoples" and would earnestly "strive to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities." The charter proclaims further that the delegates of the governments represented were each prepared "to continue taking effective practical measures to ensure conditions favorable to the orderly achievement" of these purposes. They stated that they would continue "to cooperate in the economic, social and cultural fields in order to promote higher living standards, economic progress and social well-being in this region"; and were determined "to prevent or counter . . . any attempt in the treaty area to subvert their freedom or to destroy their sovereignty or territorial integrity."

The Pacific Charter grew out of a suggestion by President Magsaysay of the Philippines who felt that it would be helpful to have the delegates proclaim the fundamental principles summarized above and the intentions and purposes which motivated them. It does not contain anything to which the United States has not frequently subscribed in past international instruments.

By this proclamation the Asiatic peoples are assured of the acceptance by the delegates to the conference of the common ultimate aim of self-determination and self-government for all areas in Asia.

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[1] *Hearings*, part 1, pp. 13–14.

[2] For the full text of the Atlantic Charter (the Anglo-American joint declaration of Aug. 14, 1941), see *A Decade of American Foreign Policy*, pp. 1–2. The allied powers subscribed to the principles of the Atlantic Charter by adhering to the U.N. Declaration of Jan. 1, 1942 (*ibid.*, p. 2).

19. NEED FOR EARLY RATIFICATION

The President transmitted the treaty and protocol to the Senate on November 10, 1954, with a request for "early and favorable consideration." At a hearing held on November 11, Secretary of State Dulles stressed the uncertainties in the treaty area and suggested that early approval by the Senate might be expected to promote stability in the region concerned.

The need for prompt ratification remains urgent. On January 3, 1955, the Department of State announced that the Foreign Ministers of the Southeast Asia Collective Defense Treaty powers had agreed to meet on February 23 in Bangkok at the invitation of the Government of Thailand. The announcement stated that—

> The purpose of the meeting will be to consider arrangements for the implementation of the Manila Treaty and to exchange views on matters affecting the peace and security of the treaty area.[1]

Although the proposed meeting need not await the entry into force of the treaty it would be helpful if all signatories had ratified by that time. The chances for this are good. Thailand has deposited its ratification and the United Kingdom, Australia and New Zealand have completed parliamentary action but not yet consummated the formalities of ratification. In France and Pakistan, parliamentary action is not expected to be necessary. The Republic of the Philippines expects to consider the treaty shortly after its Congress reconvenes on January 24.

More important than the technical desirability of bringing the treaty into force by the February 23 meeting would be the psychoogical impact of prompt action. It would demonstrate to the nations of South Asia the seriousness of our purposes and intentions. Such a show of unity would also buttress the conviction of the treaty powers that they can work harmoniously together on problems affecting the Southeast Asia area.

The general exposure of the area to the threat of communism, both nternal and external, makes it doubly important and urgent that we and our partners to this treaty discuss measures for giving early effect to its provisions.

20. CONCLUSIONS

It is the committee's view that the Manila pact constitutes a considerable accomplishment in bringing together a group of eight countries of divergent religious, racial and political backgrounds, in a common resolve to defend their freedom against the menace of nternational communism. By strengthening that resolve the United States will make a substantial contribution to the preservation of ree governments and to the defense of its own security.

The principle underlying this treaty is that advance notice of our tentions and the intentions of the nations associated with us may serve to deter potential aggressors from reckless action that could plunge the Pacific into war. To that end, the treaty makes it clear that the United States will not remain indifferent to conduct threatening the peace of Southeast Asia.

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[1] Department of State *Bulletin*, Jan. 17, 1955, pp. 89–90.

Until now, our protective system in the Pacific area has been predicated upon a group of treaties of a bilateral and trilateral character. The Southeast Asia treaty is a long step toward a more comprehensive, collective security arrangement which has been regarded as desirable by the administration and the committee.

The committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific. Yet these risks are consistent with our own highest interests. There are greater hazards in not advising a potential enemy of what he can expect of us, and in failing to disabuse him of assumptions which might lead to a miscalculation of our intentions.

For these reasons, the Committee on Foreign Relations urges the Senate to give its advice and consent to the ratification of this treaty.

Mutual Defense Treaty Between the United States and the Republic of China

34. TEXT OF TREATY, DECEMBER 2, 1954 [1]

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the West Pacific Area,

Recalling with mutual pride the relationship which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side by side against imperialist aggression during the last war,

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the West Pacific Area, and

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the West Pacific Area,

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[1] TIAS 3178; 6 UST 433–438. Ratification advised by the Senate Feb. 9, 1955; ratified by the President Feb. 11, 1955; entered into force Mar. 3, 1955.

Have agreed as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace, security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and communist subversive activities directed from without against their territorial integrity and political stability.

ARTICLE III

The Parties undertake to strengthen their free institutions and to cooperate with each other in the development of economic progress and social well-being and to further their individual and collective efforts toward these ends.

ARTICLE IV

The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty.

ARTICLE V

Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI

For the purposes of Articles II and V, the terms "territorial" and "territories" shall mean in respect of the Republic of China, Taiwan and the Pescadores; and in respect of the United States of America, the island territories in the West Pacific under its jurisdiction. The provisions of Articles II and V will be applicable to such other territories as may be determined by mutual agreement.

ARTICLE VII

The Government of the Republic of China grants, and the Government of the United States of America accepts, the right to dispose such United States land, air and sea forces in and about Taiwan and the Pescadores as may be required for their defense, as determined by mutual agreement.

ARTICLE VIII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE IX

This Treaty shall be ratified by the United States of America and the Republic of China in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Taipei.[1]

ARTICLE X

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

DONE in duplicate, in the English and Chinese languages, at Washington on this second day of December of the Year One Thousand Nine Hundred and Fifty-four, corresponding to the second day of the twelfth month of the Forty-third year of the Republic of China.

. . . .

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35. EXCHANGE OF NOTES BETWEEN THE SECRETARY OF STATE AND THE CHINESE MINISTER OF FOREIGN AFFAIRS, DECEMBER 10, 1954[2]

(A) *The Secretary of State to the Chinese Minister of Foreign Affairs*

EXCELLENCY:

I have the honor to refer to recent conversations between representatives of our two Governments and to confirm the understandings reached as a result of those conversations, as follows:

The Republic of China effectively controls both the territory described in Article VI of the Treaty of Mutual Defense between the Republic of China, and the United States of America signed on December 2, 1954, at Washington and other territory. It possesses with respect to all territory now and hereafter under its control the inherent right of self-defense. In view of the obligations of the two Parties under the said Treaty and of the fact that the use of force from either of these areas by either of the Parties affects the other, it is agreed that such use of force will be a matter of joint agreement, subject to action of an emergency character which is clearly an exercise of the inherent right of self-defense. Military elements which are a product of joint effort and contribution by the two Parties will not be removed from the territories described in Article VI to a degree which would substantially diminish the defensibility of such territories without mutual agreement.

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[1] Instruments of ratification were exchanged Mar. 3, 1955.

[2] TIAS 3178; 6 UST 450–454.

Accept, Excellency, the assurances of my highest consideration.

JOHN FOSTER DULLES
Secretary of State of the
United States of America

His Excellency
GEORGE K. C. YEH,
Minister of Foreign Affairs of
The Republic of China.

(B) The Chinese Minister of Foreign Affairs to the Secretary of State

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

> "I have the honor to refer to recent conversations between representatives of our two Governments and to confirm the understandings reached as a result of those conversations, as follows:
>
> "The Republic of China effectively controls both the territory described in Article VI of the Treaty of Mutual Defense between the Republic of China and the United States of America signed on December 2, 1954, at Washington and other territory. It possesses with respect to all territory now and hereafter under its control the inherent right of self-defense. In view of the obligations of the two Parties under the said Treaty and of the fact that the use of force from either of these areas by either of the Parties affects the other, it is agreed that such use of force will be a matter of joint agreement, subject to action of an emergency character which is clearly an exercise of the inherent right of self-defense. Military elements which are a product of joint effort and contribution by the two Parties will not be removed from the territories described in Article VI to a degree which would substantially diminish the defensibility of such territories without mutual agreement."

I have the honor to confirm, on behalf of my Government, the understanding set forth in Your Excellency's Note under reply.

I avail myself of this opportunity to convey to Your Excellency the assurances of my highest consideration.

GEORGE K C YEH
Minister for Foreign Affairs of
the Republic of China

His Excellency
JOHN FOSTER DULLES
Secretary of State of
The United States of America

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36. JOINT UNITED STATES–CHINESE STATEMENT, DECEMBER 1, 1954 [1]

Secretary of State John Foster Dulles, at his news conference today, made the following announcement:

> The United States of America and the Republic of China have concluded negotiations for a mutual security pact. The treaty will follow the general pattern of other security pacts which the United States of America has concluded in the Western Pacific.
>
> The treaty will recognize the common interest of the parties in the security of Taiwan and the Pescadores and of the Western Pacific islands under the jurisdiction of the United States. It will provide for inclusion by agreement of other territories under the jurisdiction of the parties. It is directed against threats to the security of the treaty area from armed attack and provides for continuing consultation regarding any such threat or attack.
>
> This treaty will forge another link in the system of collective security established by the various collective defense treaties already concluded between the United States and other countries in the Pacific area. Together, these arrangements provide the essential framework for the defense by the free peoples of the Western Pacific against Communist aggression.
>
> Like the other treaties, this treaty between the United States and the Republic of China will be defensive in character. It will reaffirm the dedication of the parties to the purposes and principles of the Charter of the United Nations.

The above joint United States–Chinese statement is being released simultaneously at Taipei.

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[1] S. Exec. A, 84th Cong., 1st sess.; also, Department of State *Bulletin*, Dec. 13, 1954, p. 895.

37. REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, DECEMBER 22, 1954 [1]

THE PRESIDENT,

I have the honor to submit to you, with a view to the transmission thereof to the Senate for its advice and consent to ratification, the Mutual Defense Treaty between the United States of America and the Republic of China, signed at Washington on December 2, 1954.

The history of the negotiation of this treaty extends over the past year. Preliminary consideration of such a treaty was given following a proposal first made by the Republic of China in December 1953. Following the signature of the Manila Pact on September 8, 1954,[2] it seemed more than ever appropriate that this treaty should be made. I, therefore, visited Taipei on September 9, 1954, and discussed the scope and nature of the projected treaty with President Chiang Kai-shek. Following my return to the United States, it was decided in principle to proceed actively to conclude the treaty, and to this end the Assistant Secretary of State for Far Eastern Affairs, Mr. Robertson, went to Formosa (Taiwan) in October 1954.[3] Subsequent negotiations were conducted at Washington. The principal negotiator for the Republic of China was His Excellency Yeh Kung-ch'ao, Minister for Foreign Affairs, who was available in Washington concurrently with his work as head of the Chinese delegation to the United Nations.

This treaty represents another link in the chain of collective defense arrangements in the West Pacific which bind the nations of the free world together in their common determination to resist further encroachments by the forces of communism. The treaty is entirely defensive in character and intent. It is based on a mutuality of interest and responsibility. Even though bilateral and limited in scope to but one area of the world, the treaty reaffirms, in the first paragraph of the preamble and repeated elsewhere through the text of the treaty, the signatories' faith in, and deep sense of responsibility in working toward fulfillment of, the principles and purposes of the United Nations.

The treaty consists of a preamble and 10 substantive articles. The preamble reaffirms the adherence of both Governments to the aims of the United Nations and their peaceful intentions, recalls their relationship during World War II, declares their sense of unity and determination to defend themselves against external armed attack "so that no potential aggressor could be under the illusion that either of them stands alone," and contemplates further development of a more comprehensive system of regional security in the West Pacific area.

Article I contains provisions similar to those in comparable articles of other security treaties. By its terms the parties reaffirm their solemn obligations under the Charter of the United Nations to settle by peaceful means any international disputes in which they may be involved, and to refrain in their international relations from the threat or use of force inconsistent with the purposes of the United Nations.

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[1] S. Exec. A, 84th Cong., 1st sess.

[2] *Supra*, doc. 27.

[3] See the Department of State *Bulletin*, Oct. 25, 1954, pp. 614–615.

Article II incorporates in the treaty the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.), which advises that regional and collective security arrangements joined in by the United States be based on continuous self-help and mutual aid. The parties pledge themselves by such means to maintain and develop their individual and collective capacity to resist armed attack and Communist subversive activities directed from without against their territorial integrity and political stability.

Article III confirms the agreement of the two parties to strengthen the base of freedom and to cooperate in economic and social advances which are so closely connected both with a successful resistance to communism and also with the greater welfare of the people.

Consultation regarding implementation of the treaty, as the need arises, is provided for under article IV.

By article V, each party recognizes that an armed attack in the West Pacific area directed against the territories of either party would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes. Here again the treaty makes it clear that there is to be no conflict with the United Nations, for measures taken to deal with an external armed attack are to be reported immediately to the Security Council of the United Nations and such measures as are taken will be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

The territories to which articles II and V apply are specified in article VI to be—

> in respect of the Republic of China, Taiwan, and the Pescadores; and in respect of the United States of America, the island territories in the West Pacific under its jurisdiction.

It is also provided that articles II and V will be applicable to such other territories as may be determined by mutual agreement.

Article VII grants to the United States the right to dispose such land, air, and sea forces in and about Taiwan and the Pescadores as may be required for their defense, as determined by mutual agreement. It does not make such disposition automatic or mandatory.

Article VIII makes clear that the obligations of the parties under the treaty do not affect in any way their obligations under the United Nations Charter. It recognizes the primary responsibility of the United Nations in maintaining international peace and security.

Articles IX and X specify that the treaty is to come into force with the exchange of ratifications at Taipei and that the treaty has indefinite duration, with provision for termination on 1 year's notice.

There are also enclosed, with a view to their transmittal for the information of the Senate, the texts of notes exchanged between the Secretary of State and the Chinese Foreign Minister, dated December

1954. These notes express the understanding of the signatories
.h respect to some phases of the implementation and operation of
› treaty. They make clear the recognition by the parties of the in-
ent right of the Republic of China to the self-defense of all territory
w or hereafter under its control. They confirm the understanding of
› parties that the use of force from such territories will be a matter
joint agreement, subject to action of an emergency character in the
ercise of the right of self-defense. They recognize the mutual inter-
s of the parties by providing that military elements which are a
oduct of joint effort and contribution will not be removed from the
aty area to such an extent as substantially to affect its defensibility
thout mutual agreement.

[believe that the treaty will serve as an important deterrent to
ssible Communist efforts to seize positions in the West Pacific area,
ich seizure, if attempted, would, in fact, provoke a reaction on the
rt of the United States. By making clear that we recognize that
armed attack on the treaty area would be regarded by us as danger-
s to our own peace and safety and that we would act to meet the
nger, we give the world notice which, we are entitled to hope, will
event hostile miscalculations and thus contribute to the peace and
urity of the area. Therefore, I hope that this treaty will be given
ly and favorable consideration by the Senate.

Respectfully submitted.

JOHN FOSTER DULLES,
Secretary of State.

. STATEMENT BY THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 7, 1955 [1]

A mutual defense treaty has been signed by the Republic of China
the United States and is now before the Senate for its advice and
nsent to ratification.

Before discussing the text of the treaty, let me outline the basic
nsiderations which underlie it.

The United States has been developing a pattern of mutual secu-
with other friendly and free nations of the Western Pacific. In
52 security treaties were concluded with the Philippines,[2] with
stralia and New Zealand,[3] and with Japan.[4] In 1953 a security
aty was signed with the Republic of Korea,[5] and in 1954 the
anila Pact was signed.

The considerations which impelled the making of these treaties
ually impelled the making of a security treaty with the Republic
China. The territory it occupies comprises an important link in

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Department of State *Bulletin*, Feb. 21, 1955, pp. 287–290.
Treaty of Aug. 30, 1951; *supra*, doc. 13.
Treaty of Sept. 1, 1951; *supra*, doc. 16.
Treaty of Sept. 8, 1951; *supra*, doc. 19.
Treaty of Oct. 1, 1953; *supra*, doc. 23.

the so-called "island chain" that bounds the western rim of the Pacific. Also the Government of that Republic is strongly anti-Communist and an ally of proved loyalty.

Under these circumstances the omission of the Republic of China began to take on significance. It was suggested that the reason for this omission was that the United States desired to keep open the possibility of trading Taiwan (Formosa) and the Pescadores to Communist China as part of a general settlement in the area.

Such ignoble suggestions were damaging to the morale and prestige of the Republic of China and they reflected on the integrity and honor of the United States itself.

The appearance of discrimination against the Republic of China could not be continued without prejudice to moral and political standards that we need to maintain.

The Republic of China had proposed a security treaty in December of 1953. I then felt that a treaty was in principle desirable but that careful study would be required because of the existence of special factors. These primarily grew out of the fact that hostilities continued between the Republic of China and the Chinese Communist regime, which has *de facto* control of the Chinese mainland.

Such studies took place, and there were exchanges of views through diplomatic channels. In September 1954 I visited Taiwan (Formosa), following the Manila Pact conference, and talked with President Chiang Kai-shek about the treaty and the special problems involved.

Following my return to the United States, it was decided to proceed actively and, to this end, in October 1954, I asked Walter S. Robertson, Assistant Secretary of State for Far Eastern Affairs, to go to Taiwan (Formosa) for further consultation with the Chinese authorities.[1] Subsequent negotiations were conducted at Washington, principally with His Excellency Yeh Kung-ch'ao, Chinese Minister for Foreign Affairs. The Foreign Minister and I initialed the treaty on November 23, 1954, and signed it here in Washington on December 2, 1954.

In these matters, there has been close cooperation on a bipartisan basis with the Foreign Relations Committee and particularly the present chairman,[2] the former chairman,[3] and the members of the Far Eastern Subcommittee.[4] This cooperation has related not merely to the matters of principle involved but also to the terms of the treaty itself.

I should like now to describe those terms.

The treaty consists of a preamble and 10 substantive articles. The preamble is substantially similar to that of our treaty with the Philippines and other treaties in the Pacific area.

Article I is substantially identical with the first article of the Philippine and ANZUS pacts. It says that the parties will settle their international disputes by peaceful means and in accordance with their obligations under the Charter of the United Nations, and that they will refrain in their international relations from the threat or use of force in any way inconsistent with the purposes of the United Nations.

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[1] See the Department of State *Bulletin*, Oct. 25, 1954, pp. 614–615.

[2] Senator Walter F. George.

[3] Senator Alexander Wiley.

[4] Senators H. Alexander Smith, Bourke B. Hickenlooper, William F. Knowland, Walter F. George, and John J. Sparkman.

Article II incorporates in the treaty the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.). The parties pledge themselves, by self-help and mutual aid, to maintain and develop their capacity to resist armed attack. The increasing need for capacity to resist internal subversion as well as external attack, which was reflected in the Manila Pact, is also reflected in this Article II of the China treaty. It speaks of "communist subversive activities directed from without against their territorial integrity and political stability."

Article III is similar to the corresponding article of the Southeast Asia Collective Defense Treaty in pledging the parties to strengthen their free institutions and cooperate to promote economic progress and social well-being.

Consultation regarding implementation of the treaty is provided for under article IV.

Article V, substantially identical with article IV of the Philippine treaty and article IV of the ANZUS pact, says that each party recognizes that an armed attack in the West Pacific area against the territories of either party would be dangerous to itself and that each party would act to meet the common danger in accordance with its constitutional processes. Like the other treaties, and in identical language, this article provides for reporting immediately to the Security Council all measures taken to deal with an attack, and for terminating all such measures when the Security Council has taken the necessary action.

Article VI specifies the territories mentioned in articles II and V to be—"in respect of the Republic of China, Taiwan and the Pescadores; and in respect of the United States of America the island territories in the West Pacific under its jurisdiction." It also provides that articles II and V will be applicable to "such other territories as may be determined by mutual agreement." It is our view that an agreement to extend the coverage of the China defense treaty to additional territories would in practical terms amount to an amendment of the treaty and should be submitted to the Senate for its advice and consent.

Article VII grants to the United States the right to dispose such land, air, and sea forces in and about Taiwan (Formosa) and the Pescadores as may be required for their defense, as determined by mutual agreement. It does not make such disposition automatic or mandatory. A similar provision is found in article IV of the Korean treaty.

Article VIII, substantially identical with article VI of the Philippine and the ANZUS treaties, makes it clear that the obligations of the parties under the treaty do not affect in any way their obligations under the Charter of the United Nations, and recognizes the primary responsibility of the United Nations in maintaining international peace and security.

Article IX requires that the treaty be ratified by constitutional process before it shall come into force.

Article X provides that the treaty shall remain in force indefinitely but that either country may terminate it one year after giving notice. Substantially identical provisions are found in our treaties with Korea and the Philippines.

To summarize—what the treaty would accomplish is this:

It would give the Chinese Communists notice, beyond any possibility of misinterpretation, that the United States would regard an armed attack directed against Taiwan (Formosa) and the Pescadores as a danger to its own peace and safety and would act to meet the danger—such action to be in accordance with our constitutional processes.

It would provide firm reassurance to the Republic of China and to the world that Taiwan (Formosa) and the Pescadores are not a subject for barter as part of some Far Eastern "deal" with the Chinese Communists.

Taken in conjunction with the treaties which have already been concluded by the United States and to which I have referred above, this treaty rounds out the Western Pacific security system. It would be theoretically preferable if that rounding out were accomplished by a multilateral regional pact. This may come as a future development. However, that is not practical at the present time, and, in the meantime, we need to act within the limits of the practical.

After the treaty was signed, there took place an exchange of notes, dated December 10, 1954, between the Chinese Minister for Foreign Affairs and myself. These were designed to insure that our two Governments will act in harmony and concert in relation to the present troubled state of affairs in that area. It was agreed that offensive military operations by either party from the territories held by the Republic of China would be undertaken only as a matter of joint agreement. This is obviously a reasonable and prudent understanding, because unilateral action of an offensive character by one party might throw heavy burdens upon the other party. Therefore, neither will act in disregard of the other.

It is furthermore agreed that military elements which are a product of joint effort and contribution will not be removed from the treaty area to a degree which would substantially diminish its defensibility unless by mutual agreement. This means, for example, that, if the United States has granted supplies and equipment for the forces on Formosa or has aided in the training, support, and equipment of armed forces, the resultant strength will not be removed from Formosa to other areas without our consent. Otherwise, the United States might be required continuously to replace what we had designed for the defense of Formosa.

The understandings thus expressed are important and reasonable in the light of the existing situation. They are the kind of arrangements which are proper as between friends and allies facing a common danger. They do not in any way impugn the sovereign equality of the parties.

Since this treaty was submitted to the Senate, the Congress has enacted Public Law 4[1] authorizing the President to use the armed forces of the United States in relation to Formosa and the Pescadores. The President's request for that authority arose out of Chinese Communist activities which in turn seemed to bear some relationship to the decisions of the United States which would be solemnized by this treaty and by the Manila Pact, which was approved by the Senate last week.

Relative quiet had prevailed off the China coast since 1949 until on September 3, 1954, the Chinese Communists opened heavy artillery fire on Quemoy Island. That was just 3 days before the opening of the Manila conference which concluded the Manila Pact. Then when it was known that the United States intended to negotiate this Treaty of Mutual Defense with the Republic of China, the Chinese Communists stepped up their anti-American activities. They announced their condemnation to imprisonment of United States flyers.[2] Indeed, that announcement coincided to the very day with the initialing of the security treaty by the Foreign Minister of the Republic of China and myself. Subsequently, Chinese Communist military activities in the Formosa Straits have been greatly intensified as part of what Communist propaganda proclaims to be their intention to exert their full force to conquer Formosa.

On January 24, the Chinese Communist Premier and Foreign Minister said, "The Chinese people must liberate Taiwan (Formosa) and the United States must . . . withdraw all its armed forces from Taiwan (Formosa) and the Taiwan (Formosa) Straits." [3]

The armed hostilities in the area seemed so likely to endanger the maintenance of international peace and security that on January 28, 1955, the representative of New Zealand brought the situation to the attention of the U.N. Security Council; and on January 31, 1955, the Council invited a representative of the Chinese Communist regime to participate in the discussion of this item.[4] On February 3, 1955, the Chinese Communist Premier and Foreign Minister rejected that invitation. In so doing, he referred to this defensive treaty as "aggression" and again demanded that the United States "withdraw all its armed forces from Taiwan (Formosa) and the Taiwan (Formosa) Straits."[5]

I doubt that the Chinese Communists really intend to wage war against the United States unless the United States abandons this treaty with all that that abandonment would imply. However, I do not doubt that the Chinese Communists are probing our resolution. They no doubt hope that we want peace so ardently that we will retreat in the face of their threats.

It is true that we want peace and that we want it ardently. However, we do not want it at the price of our security or of our honor. Indeed experience shows that those who try in that way to buy peace in fact only increase the ultimate danger of war. They encourage the aggressors to make ever-mounting demands, so that in the end there is no alternative to fighting.

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[1] *Infra*, pp. 2486–2487.

[2] For the text of the judgment of the Military Tribunal of the Supreme People's Court of the People's Republic of China, Nov. 23, 1954, see *Documents on American Foreign Relations, 1954* (New York, 1955), pp. 348–352.

[3] Statement broadcast by the Peiping radio on Jan. 24, 1955; New York *Times*, Jan. 25, 1955.

[4] See U.N. Security Council, *Official Records, Tenth Year, 690th Meeting.*

[5] New York *Times*, Feb. 4, 1955.

Under the circumstances which the Chinese Communists themselves have deliberately created, failure to conclude this treaty would have the gravest consequences. It would at once endanger the entire non-Communist position in the Western Pacific and Southeast Asia. It would stimulate the aggressive activities of international communism everywhere and would grievously hurt the interests of free peoples everywhere, including the interests of our own United States.

Such a course is to my mind unthinkable. In the face of Communist probing deeds and blustering words, the United States should remain calm, but it should remain firm in its purpose. It is at least possible that the enactment of Public Law 4 and the ratification of this treaty will together create a situation in which the present warlike mood of the Chinese Communists may subside.

The congressional authority to the President and the treaty ratification are two complementary acts. Under the circumstances that the Chinese Communists have created, neither, alone, is enough.

Therefore, I now urge the prompt consent of the Senate to the ratification of the mutual defense treaty with the Republic of China.

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39. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS, FEBRUARY 8, 1955 [1]

The Committee on Foreign Relations, to whom was referred the Mutual Defense Treaty with the Republic of China (Ex. A, 84th Cong., 1st sess.), signed at Washington on December 2, 1954, reports the treaty to the Senate, and recommends that its advice and consent to ratification be given at an early date.

1. MAIN PURPOSE OF THE TREATY

The present treaty constitutes the sixth link in the chain of security pacts which the United States has concluded with other governments in the Western Pacific. Like the ones which have preceded, its primary purpose is to prevent aggression on the part of a potential enemy, by giving advance notice that the United States will regard an armed attack upon the area covered by the treaty as dangerous to our peace and safety. Should such an attack occur, we will act to meet the danger in accordance with our constitutional processes (art. V). Purely defensive in character, the text of the treaty reaffirms the parties' faith in the principles of the United Nations and their desire to live in peace with all peoples (preamble, arts. I, V, and VIII). Likewise, the parties undertake to refrain from the threat or use of force in their international relations (art. I). They pledge themselves to maintain and develop their individual and collective capacity to resist armed attack as well as Communist subversive activities (art. II). They also agree to cooperate in the development of economic progress and social well-being (art. III), and to consult together from time to time concerning the implementation of the treaty (art. IV). Other articles define the territory to which the provisions of articles II and V are applicable (art. VI) and authorize the United States to dispose its land, air, and sea forces in and about Taiwan and the Pescadores as required for their defense, subject to mutual agreement.

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[1] S. Exec. Rept. No. 2, 84th Cong., 1st sess.

2. BACKGROUND

Conclusion of this treaty reflects the continuing and increasing concern of the United States with the security of the Pacific area. In 1951, the United States negotiated Mutual Defense Treaties with the Philippines [1] and with Australia and New Zealand [2] and a Security Treaty with Japan.[3] A Mutual Defense Pact With Korea followed in 1953.[4] Last year the Southeast Asia Collective Defense Treaty [5] and the Mutual Defense Treaty With the Republic of China were added to the security system of protection against Communist aggression in Asia.

Preliminary consideration to the desirability of a treaty with China was given following a proposal for such an agreement by the Republic of China in December 1953. After the Southeast Asia Treaty was signed at Manila on September 8, 1954, Secretary of State Dulles visited Formosa and discussed the scope of such a treaty with President Chiang Kai-shek. Further negotiations were carried on by Assistant Secretary of State for Far Eastern Affairs, Mr. Robertson, at Taipei in October 1954,[6] and later at Washington with the Chinese Minister for Foreign Affairs, His Excellency Yeh Kung-ch'ao. The treaty was signed at Washington on December 2, 1954. It was transmitted to the Senate on January 6, 1955.[7]

3. COMMITTEE ACTION

Although the administration had requested that the treaty receive prompt consideration, action by the Senate was delayed somewhat owing to the necessity of giving more immediate attention to the President's message of January 24, 1955.[8] In that message the Chief Executive requested congressional authority to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores, and related positions and territories of that area now in friendly hands against armed attack.

In a meeting held jointly with the Armed Services Committee, the committee examined the authority requested in the President's message with Secretary of State Dulles on January 24, and with the Chairman of the Joint Chiefs of Staff, Adm. Arthur W. Radford. Gen. Nathan F. Twining, Chief of Staff, United States Air Force, Gen. Matthew B. Ridgway, Chief of Staff, United States Army, and Adm. Robert B. Carney, Chief of Naval Operations, also appeared and acquainted the committees with their views. In the course of these discussions, the significance and effect of various provisions of the present treaty were explored at some length, particularly as they related to the authority requested under the proposed resolution.

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[1] *Supra*, doc. 13.
[2] *Supra*, doc. 16.
[3] *Supra*, doc. 19.
[4] *Supra*, doc. 23.
[5] *Supra*, docs. 27–28.
[6] See the Department of State *Bulletin*, Oct. 25, 1954, pp. 614–615.
[7] S. Exec. A, 84th Cong., 1st sess.
[8] *Infra*, pp. 2483–2486.

On February 7, Secretary of State Dulles appeared before the committee in executive session, at which time he was heard in greater detail on the specific provisions of the treaty. On February 8 the committee agreed, by a vote of 11 to 2, to report the treaty to the Senate for final action.

4. SUMMARY OF TREATY PROVISIONS

In the previous defense pacts we have negotiated in the Pacific, a more or less standard pattern has been used, with variations to fit the situation confronting the signatory parties. The present treaty follows that general format, and the provisions of several of its articles are virtual reproductions of the corresponding text of our Mutual Defense Treaty With the Philippines.

The preamble to the treaty contains a reaffirmation by the parties of their faith in the United Nations Charter, as well as of their desire to live in peace with all peoples and all governments and to strengthen the fabric of peace in the west Pacific area. It is keynoted by a formal declaration of their sense of unity and of their common determination to defend themselves against armed attack, to the end that no potential aggressor might entertain the illusion that either signatory stands alone. Finally, the parties express the desire to strengthen their efforts for collective defense pending the development of a more comprehensive system of regional security in the area protected.

Article I of the treaty reproduces the provision of previous security treaties under which the parties undertake to settle international disputes in which they may be involved by peaceful means and to refrain in their international relations from the threat or use of force inconsistent with the purposes of the United Nations.

Article II is predicated upon the principle of the Vandenberg resolution (S. Res. 239, 80th Cong.), which is a common feature of the other security treaties. It obligates the parties separately and jointly by self-help and mutual aid to maintain and develop their individual and collective capacity not only to resist armed attack but also—

> Communist subversive activities directed from without against their territorial integrity and political stability.

This recognition of the dangers of subversion is similar to the corresponding clause of the Southeast Asia Collective Defense Treaty (Ex. K, 83d Cong.), in which it first appeared. Unlike that treaty, however, there is no further provision in the treaty with China that the parties will consult on measures to be taken in the event that their territorial integrity or political stability is threatened by any fact or situation, such as, for example, subversion from without, which endangers the peace of the area (Southeast Asia Treaty, art. IV, 2). A general provision for consultation concerning implementation of the treaty is, however, provided for in article IV.

Under article III, the parties agree to strengthen their free institutions and to cooperate with each other in the development of economic progress and social well-being. Like the clause on subversion, this provision made its appearance for the first time in the Southeast Asia Treaty, and has no counterpart in prior security treaties. As was pointed out by the committee's report on the Southeast Asia Treaty (Ex. Rept. No. 1, 84th Cong.):[1]

> . . . the article does not commit the United States to a specific aid program, nor does it preclude continued economic cooperation with any country whose economic welfare is important to our own well-being . . .

Article IV provides that the parties will consult together from time to time, through their Foreign Ministers or their deputies, concerning the implementation of the treaty.

5. SCOPE OF UNITED STATES COMMITMENT (ART. V)

Article V, which contains the heart of the treaty, is virtually identical with the provisions of article IV of the Philippines and ANZUS Defense Treaties. In the first paragraph, each party recognizes that—

> an armed attack in the West Pacific Area directed against the territorics of either of the parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

The basic provision is one which has repeatedly received the committee's attention, and requires little comment. It embodies the now familiar "Monroe Doctrine formula," encountered in the previous defense pacts, and the concept that any action taken by the United States must be in accordance with our constitutional processes. Put somewhat differently, there is no question of any automatic commitment such as was discussed with respect to the "attack upon one is an attack upon all" concept of the North Atlantic Treaty. The power of the United States Government to act under this treaty remains precisely as it is defined in the Constitution, without impairing either the right of the Congress to declare war, or the authority of the President to act as Commander in Chief and as director of this Nation's foreign relations. The problem was examined in some detail by the committee in its reports on the Southeast Asia Collective Defense Treaty (Ex. Rept. No. 1, 84th Cong.) and the Mutual Defense Treaty with Korea (Ex. Rept. No. 1, 83d Cong.).[2]

The committee considered carefully the wording of article V and the nature of our commitments under that article. In order to clear up any doubt on this point, it was agreed that its report should include the following statement:

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[1] *Supra*, doc. 33.

[2] *Supra*, doc. 26.

> It is the understanding of the Senate that the obligations of the parties under article V apply only in the event of external armed attack; and that military operations by either party from the territories held by the Republic of China, shall not be undertaken except by joint agreement.

The understanding reflects an agreement manifested by the Government of the United States and the Government of the Republic of China in an exchange of notes dated December 10, 1954, under which the use of force from the areas specified must be pursuant to joint agreement, except for emergency actions by way of self-defense.

Finally, in the event of such armed attack as is envisaged by paragraph 1 of article V, the parties agree, in paragraph 2, that—

> all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

The paragraph reflects the position of both signatories as members of the United Nations.

6. THE TREATY AREA

Article VI defines the treaty area. It declares that, for the purposes of articles II and V, the terms "territorial" and "territories" shall mean—

> in respect of the Republic of China, Taiwan and the Pescadores; and in respect of the United States of America, the island territories in the west Pacific under its jurisdiction.

The treaty area is thus defined in a limited way and as such does not extend the obligation of the United States to defend any territories other than Formosa and the Pescadores. Embraced within the protection given our own "island territories in the west Pacific" are such groups as the Ryukyus (including Okinawa), the trust territories (former Japanese mandated islands) and Guam.

However, article VI expressly contemplates that the obligations of articles II and V of the treaty may be made applicable—

> to such other territories as may be determined by mutual agreement.

During the hearings, some members of the committee expressed concern lest the words "mutual agreement" be interpreted as permitting an important extension of our treaty commitments without the approval of the Senate. Secretary Dulles assured the committee, however, that as in the case of the Southeast Asia Collective Defense Treaty—

> an agreement to extend the coverage of the China Defense Treaty to additional territories would in practical terms amount to an amendment of the treaty, and should be submitted to the Senate for its advice and consent.[1]

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[1] Statement of Feb. 7, 1955; Department of State *Bulletin*, Feb. 21, 1955, p. 288.

Nevertheless, the committee, with the aim of avoiding any doubts as to the nature of the "mutual agreement" required, decided to include the following statement in this report:

> It is the understanding of the Senate that the "mutual agreement" referred to in article VI, under which the provisions of articles II and V may be made applicable to other territories, shall be construed as requiring the advice and consent of the Senate of the United States.

7. OTHER PROVISIONS

Article VII of the treaty, as in the Japanese and Korean defense pacts, authorizes the United States to dispose its Land, Sea, and Air Forces in and about the territory of Formosa and the Pescadores. With respect to a corresponding privilege granted by article IV of the Korean Treaty, the administration made it clear that this provision did not impose on the United States an automatic or mandatory obligation to do so. We are free to station forces or not, as circumstances may indicate. At the present time there is a United States Military Assistance Advisory Group in Formosa charged with responsibility for our military assistance to the Republic of China.

Article VIII reproduces the declaration found in the Southeast Asia, the Philippine, and the ANZUS Treaties, that the treaty shall not be construed as affecting in any way the rights and obligations of the parties under the Charter of the United Nations or that body's responsibility for the maintenance of international peace and security.

Article IX provides for ratification in accordance with the parties' constitutional processes, and sets the coming into force of the instrument as the date of exchanging ratifications at Taipei.

Finally, article X stipulates an indefinite duration for the treaty, subject to a right of termination by either party after 1 year's notice has been given.

8. STATUS OF FORMOSA AND THE PESCADORES

China ceded Formosa and the Pescadores to Japan by the 1895 Treaty of Shimonoseki after the Sino-Japanese War.[1] At the Cairo Conference in 1943, President Roosevelt, Prime Minister Churchill, and Generalissimo Chiang Kai-shek agreed that Formosa and the Pescadores "shall be restored to the Republic of China."[2] At the Potsdam Conference this decision was confirmed in the proclamation defining the terms for Japanese surrender, July 26, 1945.[3] Administrative control of the island was turned over to the Republic of China subsequent to the Japanese surrender in September 1945.[4]

Formosa became the seat of the National Government of the Republic of China in December 1949. By the peace treaty of September

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[1] Treaty of Apr. 17, 1895; *British and Foreign State Papers*, vol. 87, pp. 799–805.

[2] Declaration of Dec. 1, 1943; *A Decade of American Foreign Policy*, p. 22.

[3] *Ibid.*, pp. 49–50.

[4] Instrument of surrender, Sept. 2, 1945; *ibid.*, pp. 625–626. See also General Order No. 1, issued by the Supreme Commander for the Allied Powers on Sept. 2, 1945; *Political Reorientation of Japan, September 1945 to September 1948*, vol. II, pp. 442–445.

8, 1951, signed with the United States and other powers, Japan renounced "all right, title, and claim to Formosa and the Pescadores."[1] The treaty did not specify the nation to which such right, title, and claim passed. Although the Republic of China was not a signatory to the treaty it and the parties at the conference expressly recognized that it did not dispose finally of Formosa and the Pescadores. The Republic of China concluded a separate peace treaty with Japan on April 28, 1952,[2] "on the same or substantially the same terms" as specified in article 26 of the Japanese treaty.

At a press conference on December 1, 1954, Secretary of State Dulles was asked whether the treaty recognized the claim of the Republic of China to sovereignty over the mainland. He replied: "It does not deal specifically with that matter one way or another."[3] Later, during a discussion of this question in executive session, he informed the committee that the reference in article V to "the territories of either of the parties" was language carefully chosen to avoid denoting anything one way or another as to their sovereignty.

It is the view of the committee that the coming into force of the present treaty will not modify or affect the existing legal status of Formosa and the Pescadores. The treaty appears to be wholly consistent with all actions taken by the United States in this matter since the end of World War II, and does not introduce any basically new element in our relations with the territories in question. Both by act and by implication we have accepted the Nationalist Government as the lawful authority on Formosa.

To avoid any possibility of misunderstanding on this aspect of the treaty, the committee decided it would be useful to include in this report the following statement:

> It is the understanding of the Senate that nothing in the treaty shall be construed as affecting or modifying the legal status or sovereignty of the territories to which it applies.

9. FORMOSA TREATY AND PUBLIC LAW 4 (H. J. RES. 159) COMPARED

On January 28 Congress approved a joint resolution, Public Law 4 (H. J. Res. 159)[4] authorizing the President to employ the Armed Forces of the United States for protecting against armed attack the security of Formosa, the Pescadores, and—

> such related positions and territories of that area now in friendly hands and the taking of such other measures as he judges to be required or appropriate in assuring the defense of Formosa and the Pescadores.

During the debate on this resolution in the Senate (which adopted it by a vote of 85 to 3) some concern was voiced as to the possible use of our Armed Forces to defend certain Nationalist-occupied islands adjacent to the mainland of Communist China.[1] On the other hand, there was little if any dissent from that part of the resolution which proclaimed the determination of the United States to protect Formosa and the Pescadores. It is this region to which the present defense treaty specifically applies. Under article VI of the treaty, the territorial area covered is defined, in respect of the Republic of China, as "Taiwan and the Pescadores." But article VI, as previously noted, also provides for an expansion of the treaty area, by stipulating that the commitment provisions of articles II and V "will be applicable to such other territories as may be determined by mutual agreement." The significance of the phrase quoted has already been discussed.

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[1] See art. 2 of the treaty, *supra*, p. 426.

[2] *The Japan Year Book, 1949–52*, pp. 485–488.

[3] Department of State *Bulletin*, Dec. 13, 1954, p. 896.

[4] *Infra*, pp. 2486–2487.

The geographic scope of the present treaty is therefore narrower than that of the resolution. Apart from this important distinction, the essential difference between the resolution and the treaty is that by virtue of the latter the United States assumes as an international obligation certain commitments which the resolution deals with on a unilateral and voluntary basis. In that respect, however, the treaty, as has already been noted, does no more than formalize a policy which our Government has followed for several years, to maintain Formosa as an essential anchor of our western defense chain.

A further substantial difference between the treaty and the resolution resides in the fact that whereas the treaty remains in force indefinitely subject to 1 year's notice of termination (art. X), the resolution, by its own language, expires—

> when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, and shall so report to the Congress.

10. NEED FOR PROMPT RATIFICATION

It is common knowledge that the area for which protection is sought by this treaty is under a direct and immediate threat of Communist attack. Certain islands under the control of the Republic of China, not covered by the treaty, have been attacked by air and from the sea; and recently one of these islands fell to Communist invaders from the mainland. There is, therefore, cogent reason to expedite the Senate's action on the treaty, to the end that the Mao Tse-tung regime may be deterred from reckless attempts to "liberate" Formosa in the face of our pledged word to help keep it from falling into unfriendly hands.

On January 14, the Legislative Yuan of the Chinese Nationalist Government ratified the treaty. The committee believes that for the Senate to delay giving its approval to this treaty, whose aims are solely defensive, would be unfortunate.

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[1] For congressional debate on the Formosa resolutions, see *Congressional Record*, vol. 101, pp. 601–602, 620–624, 627, 659–683, 719–720, 731–732, 735–769, 813–852, 920–995.

11. CONCLUSIONS

Our Government has determined that it is in the national interest that Formosa and the Pescadores be kept in friendly hands, as an important anchor in the defensive chain from the Aleutians to Australia. It is, therefore, of great importance that this policy, which until now has been voluntary and unilateral, be supported by a concrete undertaking to take appropriate action to help defend Formosa and the Pescadores against armed attack. By doing this in terms which cannot be misunderstood, it is hoped that the Communist military regime will be deterred from further attempts to aggrandize its position in the Far East at the expense of the free world. At the same time, the treaty will give further evidence of our intention not to abandon a wartime ally who fought valiantly in a long and exhausting struggle against a common foe. Finally, it is believed that the treaty, by putting the world on notice as to our intention, will contribute to the peace and security of a dangerous and sensitive zone.

For these reasons, the Committee on Foreign Relations urges the Senate to give its advice and consent to the ratification of this treaty.

MEMBERSHIP OF EUROPEAN REGIONAL ARRANGEMENTS

(Limited to active Arrangements documented in this Part)

COUNTRIES	Western European Union	Organization for European Economic Co-operation	Council of Europe	European Payments Union	European Coal & Steel Community	Balkan Pact	Warsaw Security Pact
Austria		●		●			
Belgium	●	●	●	●	●		
Denmark		●	●	●			
France	●	●	●	●	●		
German Federal Republic	●	●	●	●	●		
Greece		●	●	●		●	
Iceland		●	●	●			
Ireland		●	●	●			
Italy	●	●	●	●	●		
Luxembourg	●	●	●	●	●		
Netherlands	●	●	●	●	●		
Norway		●	●	●			
Portugal		●		●			
Sweden		●	●	●			
Switzerland		●		●			

Turkey		●	●	●		●	
United Kingdom	●	●	●	●	○		
Yugoslavia						●	
(Canada)		○					
(United States)		○					
Albania							●
Bulgaria							●
Czechoslovakia							●
German Democratic Republic							●
Hungary							●
Poland							●
Rumania							●
Soviet Union							●

●Membership ○Informal Association

Part VI

EUROPEAN REGIONAL ARRANGEMENTS

[For membership chart see pages 966 and 967.]

The Western European Union

1. TREATY OF ECONOMIC, SOCIAL, AND CULTURAL COLLABORATION AND COLLECTIVE SELF-DEFENSE (BRUSSELS TREATY), MARCH 17, 1948 [1]

His Royal Highness the Prince Regent of Belgium, the President of the French Republic, President of the French Union, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas,

Resolved

To reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the other ideals proclaimed in the Charter of the United Nations;

To fortify and preserve the principles of democracy, personal freedom and political liberty, the constitutional traditions and the rule of law, which are their common heritage;

To strengthen, with these aims in view, the economic, social and cultural ties by which they are already united;

To co-operate loyally and to co-ordinate their efforts to create in Western Europe a firm basis for European economic recovery;

To afford assistance to each other, in accordance with the Charter of the United Nations, in maintaining international peace and security and in resisting any policy of aggression;

To take such steps as may be held to be necessary in the event of a renewal by Germany of a policy of aggression;

To associate progressively in the pursuance of these aims other States inspired by the same ideals and animated by the like determination;

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[1] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 57–62. Entered into force Aug. 25, 1948.

Desiring for these purposes to conclude a treaty for collaboration in economic, social and cultural matters and for collective self-defence;

Have appointed as their Plenipotentiaries:

. . . .

who, having exhibited their full powers found in good and due form, have agreed as follows:

ARTICLE I

Convinced of the close community of their interests and of the necessity of uniting in order to promote the economic recovery of Europe, the High Contracting Parties will so organize and coordinate their economic activities as to produce the best possible results, by the elimination of conflict in their economic policies, the co-ordination of production and the development of commercial exchanges.

The co-operation provided for in the preceding paragraph, which will be effected through the Consultative Council referred to in Article VII as well as through other bodies, shall not involve any duplication of, or prejudice to, the work of other economic organizations in which the High Contracting Parties are or may be represented but shall on the contrary assist the work of those organizations.

ARTICLE II

The High Contracting Parties will make every effort in common, both by direct consultation and in specialized agencies, to promote the attainment of a higher standard of living by their peoples and to develop on corresponding lines the social and other related services of their countries.

The High Contracting Parties will consult with the object of achieving the earliest possible application of recommendations of immediate practical interest, relating to social matters, adopted with their approval in the specialized agencies.

They will endeavour to conclude as soon as possible conventions with each other in the sphere of social security.

ARTICLE III

The High Contracting Parties will make every effort in common to lead their peoples towards a better understanding of the principles which form the basis of their common civilization and to promote cultural exchanges by conventions between themselves or by other means.

ARTICLE IV

If any of the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will, in accordance with the provisions of Article 51 of the Charter of the United Nations, afford the party so attacked all the military and other aid and assistance in their power.

ARTICLE V

All measures taken as a result of the preceding Article shall be immediately reported to the Security Council. They shall be terminated as soon as the Security Council has taken the measures necessary to maintain or restore international peace and security.

The present Treaty does not prejudice in any way the obligations of the High Contracting Parties under the provisions of the Charter of the United Nations. It shall not be interpreted as affecting in any way the authority and responsibility of the Security Council under the Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

ARTICLE VI

The High Contracting Parties declare, each so far as he is concerned, that none of the international engagements now in force between him and any other of the High Contracting Parties or any third State is in conflict with the provisions of the present Treaty.

None of the High Contracting Parties will conclude any alliance or participate in any coalition directed against any other of the High Contracting Parties.

ARTICLE VII

For the purpose of consulting together on all the questions dealt with in the present Treaty, the High Contracting Parties will create a Consultative Council, which shall be so organized as to be able to exercise its functions continuously. The Council shall meet at such times as it shall deem fit.

At the request of any of the High Contracting Parties, the Council shall be immediately convened in order to permit the High Contracting Parties to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise; with regard to the attitude to be adopted and the steps to be taken in case of a renewal by Germany of an aggressive policy; or with regard to any situation constituting a danger to economic stability.

ARTICLE VIII

In pursuance of their determination to settle disputes only by peaceful means, the High Contracting Parties will apply to disputes between themselves the following provisions:

The High Contracting Parties will, while the present Treaty remains in force, settle all disputes falling within the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice [1] by referring them to the Court, subject only, in the case of each of them, to any reservation already made by that Party when accepting this clause for compulsory jurisdiction to the extent that that Party may maintain the reservation.

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[1] *A Decade of American Foreign Policy*, p. 147.

In addition, the High Contracting Parties will submit to conciliation all disputes outside the scope of Article 36, paragraph 2, of the Statute of the International Court of Justice.

In the case of a mixed dispute involving both questions for which conciliation is appropriate and other questions for which judicial settlement is appropriate, any Party to the dispute shall have the right to insist that the judicial settlement of the legal questions shall precede conciliation.

The preceding provisions of this Article in no way affect the application of relevant provisions or agreements prescribing some other method of pacific settlement.

ARTICLE IX

The High Contracting Parties may, by agreement, invite any other State to accede to the present Treaty on conditions to be agreed between them and the State so invited.

Any State so invited may become a Party to the Treaty by depositing an instrument of accession with the Belgian Government.

The Belgian Government will inform each of the High Contracting Parties of the deposit of each instrument of accession.

ARTICLE X

The present Treaty shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Belgian Government.[1]

It shall enter into force on the date of the deposit of the last instrument of ratification and shall thereafter remain in force for fifty years.

After the expiry of the period of fifty years, each of the High Contracting Parties shall have the right to cease to be a party thereto provided that he shall have previously given one year's notice of denunciation to the Belgian Government.

The Belgian Government shall inform the Governments of the other High Contracting Parties of the deposit of each instrument of ratification and of each notice of denunciation.

In witness whereof, the above-mentioned Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done at Brussels, this seventeenth day of March 1948, in English and French, each text being equally authentic, in a single copy which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other signatories.

. . . .

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[1] Instruments of ratification were deposited by the Brussels Treaty Powers in the following order and on the dates indicated: Belgium, Apr. 30, 1948; the United Kingdom, June 2, 1948; Luxembourg, June 10, 1948; the Netherlands, July 20, 1948; and France, Aug. 25, 1948.

2. DECLARATION INVITING ITALY AND THE FEDERAL REPUBLIC OF GERMANY TO ACCEDE TO THE BRUSSELS TREATY, OCTOBER 23, 1954 [1]

The Governments of Belgium, France, Luxembourg, the Netherlands and the United Kingdom, Parties to the Brussels Treaty of March the 17th, 1948,[2] for collaboration in economic, social and cultural matters and for legitimate collective self-defence;

Aware that the principles underlying the association created by the Brussels Treaty are also recognized and applied by the Federal Republic of Germany and Italy;

Noting with satisfaction that their devotion to peace and their allegiance to democratic institutions constitute common bonds between the countries of Western Europe;

Convinced that an association with the Federal Republic of Germany and Italy would represent a new and substantial advance in the direction already indicated by the Treaty;

Decide,

in application of Article IX of the Treaty, to invite the Federal Republic of Germany and Italy to accede to this Treaty, as modified and completed in accordance with the decisions of the Conference held in London from September the 28th to October the 3rd, 1954 which are recorded in its Final Act.[3]

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3. PROTOCOL NO. I (AND ANNEX) MODIFYING AND COMPLETING THE BRUSSELS TREATY, OCTOBER 23, 1954 [4]

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands and Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Parties to the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels on March the 17th, 1948, hereinafter referred to as the Treaty, on the one hand,

and the President of the Federal Republic of Germany and the President of the Italian Republic on the other hand,

Inspired by a common will to strengthen peace and security;

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[1] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), p. 37.

[2] *Supra.*

[3] *Infra,* pp. 1474–1491.

[4] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 37–42. Entered into force May 6, 1955.

Desirous to this end of promoting the unity and of encouraging the progressive integration of Europe;

Convinced that the accession of the Federal Republic of Germany and the Italian Republic to the Treaty will represent a new and substantial advance towards these aims;

Having taken into consideration the decisions of the London Conference as set out in the Final Act of October the 3rd, 1954 and its Annexes;[1]

Have appointed as their Plenipotentiaries:

. . . .

Who, having exhibited their full powers found in good and due form,

Have agreed as follows:

Article I

The Federal Republic of Germany and the Italian Republic hereby accede to the Treaty as modified and completed by the present Protocol.

The High Contracting Parties to the present Protocol consider the Protocol on Forces of Western European Union (hereinafter referred to as Protocol No. II),[2] the Protocol on the Control of Armaments and its Annexes (hereinafter referred to as Protocol No. III),[3] and the Protocol on the Agency of Western European Union for the Control of Armaments (hereinafter referred to as Protocol No. IV)[4] to be an integral part of the present Protocol.

Article II

The sub-paragraph of the Preamble to the Treaty: "to take such steps as may be held necessary in the event of renewal by Germany of a policy of aggression" shall be modified to read: "to promote the unity and to encourage the progressive integration of Europe".

The opening words of the 2nd paragraph of Article I shall read: "The co-operation provided for in the preceding paragraph, which will be effected through the Council referred to in Article VIII. . . . ".

Article III

The following new Article shall be inserted in the Treaty as Article IV: "In the execution of the Treaty the High Contracting Parties and any organs established by Them under the Treaty shall work in close co-operation with the North Atlantic Treaty Organization".

Recognising the undesirability of duplicating the Military Staffs of NATO, the Council and its agency will rely on the appropriate Military Authorities of NATO for information and advice on military matters.

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[1] *Infra,* pp. 1474–1491.

[2] *Infra,* doc. 4.

[3] *Infra,* doc. 5.

[4] *Infra,* doc. 6.

Articles IV, V, VI and VII of the Treaty will become respectively Article V, VI, VII and VIII.

Article IV

Article VIII of the Treaty (formerly Article VII) shall be modified to read as follows:

"1. For the purposes of strengthening peace and security and of promoting unity and of encouraging the progressive integration of Europe and closer co-operation between Them and with other European organizations, the High Contracting Parties to the Brussels Treaty shall create a Council to consider matters concerning the execution of this Treaty and of its Protocols and their Annexes.

"2. This Council shall be known as the "Council of Western European Union"; it shall be so organized as to be able to exercise its functions continuously; it shall set up such subsidiary bodies as may be considered necessary: in particular it shall establish immediately an Agency for the Control of Armaments whose functions are defined in Protocol No. IV.

"3. At the request of any of the High Contracting Parties the Council shall be immediately convened in order to permit Them to consult with regard to any situation which may constitute a threat to peace, in whatever area this threat should arise, or a danger to economic stability.

"4. The Council shall decide by unaminous vote questions for which no other voting procedure has been or may be agreed. In the cases provided for in Protocols II, III and IV it will follow the various voting procedures, unanimity, two-thirds majority, simple majority, laid down therein. It will decide by simple majority questions submitted to it by the Agency for the Control of Armaments".

Article V

A new Article shall be inserted in the Treaty as Article IX: "The Council of Western European Union shall make an Annual Report on its activities and in particular concerning the control of armaments to an Assembly composed of representatives of the Brussels Treaty Powers to the Consultative Assembly of the Council of Europe".[1]

The Articles VIII, IX and X of the Treaty shall become respectively Articles X, XI and XII.

Article VI

The present Protocol and the other Protocols listed in Article I above shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Belgian Government.

They shall enter into force when all instruments of ratification of the present Protocol have been deposited with the Belgian Government and the instrument of accession of the Federal Republic of Germany to the North Atlantic Treaty has been deposited with the Government of the United States of America.[1]

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[1] See Statute of the Council of Europe; *infra*, doc. 9.

The Belgian Government shall inform the governments of the other High Contracting Parties and the Government of the United States of America of the deposit of each instrument of ratification.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Protocol and have affixed thereto their seals.

Done at Paris this 23rd day of October 1954 in two texts, in the English and French languages, each text being equally authoritative in a single copy which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

. . . .

Annex to Protocol No. I

LETTERS WITH REFERENCE TO THE JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE FROM, RESPECTIVELY, THE GOVERNMENTS OF THE FEDERAL REPUBLIC AND OF ITALY TO THE OTHER GOVERNMENTS SIGNATORY OF THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY [2]

I have the honour to make the following communication to Your Excellency in order to place on record the undertaking of the Federal/Italian Government regarding the application and interpretation of Article X (formerly Article VIII), of the Brussels Treaty.

The Federal/Italian Government undertake, before the Protocol modifying and completing the Brussels Treaty and the related Protocols and their Annexes are ratified by the High Contracting Parties, to declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly rticle VIII) of the Treaty, having made known to the Parties the reservations accompanying their acceptance.

The Federal/Italian Government understand that, in the view of the other High Contracting Parties, paragraph 5 of Article X (formerly Article VIII) of the Treaty leaves the way open for concluding agreements on other means of settling disputes between Them, and that the undertaking in question shall in no way prejudice the possibility of opening discussions immediately with a view to establishing other methods of settling possible disputes in the application or interpretation of the Treaty.

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[1] The signatories of the four Protocols to the Brussels Treaty deposited their nstruments of ratification in the following order and on the dates indicated: Italy, Apr. 20, 1955; Belgium, Apr. 22, 1955; the Netherlands, May 1, 1955; Luxembourg, May 4, 1955; and France, the Federal Republic of Germany, and the United Kingdom, May 5, 1955. The Federal Republic of Germany deposited its instrument of accession to the North Atlantic Treaty May 6, 1955.

[2] The texts printed below contain the substance of the exchange of letters between the Governments of Italy and the Federal Republic of Germany on the one hand and the Governments of France, Belgium, the Netherlands, Luxembourg, and the United Kingdom on the other.

[In the Federal Government's letter only]

Moreover, in the opinion of the Federal Government, the widening of the Brussels Treaty may give rise to a number of doubts and disputes as to the interpretation and application of the Treaty, the Protocols and their Annexes, which may not be of fundamental importance but mainly of a technical nature. The Federal Government consider that it is desirable to establish another, simpler procedure for the settlement of such matters.

The Federal Government therefore propose that the High Contracting Parties should discuss the problems set out above at once, with a view to reaching agreement on an appropriate procedure.

[In letters from both Federal and Italian Governments]

I should be grateful if Your Excellency would confirm that [the Government concerned] agree with this letter. The exchange of letters thus effected will be considered as an Annex to the Protocol modifying and completing the Brussels Treaty, within the meaning of Article IV, paragraph 1, of the said Protocol.

REPLY TO THE LETTERS FROM THE GOVERNMENTS OF THE FEDERAL REPUBLIC AND OF ITALY TO THE OTHER GOVERNMENTS SIGNATORY OF THE PROTOCOL MODIFYING AND COMPLETING THE BRUSSELS TREATY

I have the honour to acknowledge receipt of Your Excellency's communication of . . . . . (date) . . . . . and to state that [the Government concerned] have noted with satisfaction that the Government of the Federal Republic of Germany/the Italian Government undertake to declare their acceptance of the compulsory jurisdiction of the International Court of Justice in accordance with Article X (formerly Article VIII) of the Brussels Treaty, having made known to the High Contracting Parties the reservations accompanying their acceptance.

I confirm that [the Government concerned] interpret paragraph 5 of Article X (formerly Article VIII) of the Treaty as stated in the third paragraph of Your Excellency's communication.

[In the reply to the Federal Government's letter only]

With regard to the fourth and fifth paragraphs of Your Excellency's communication, [the Government concerned] are in agreement with the proposal of the Federal Government that the High Contracting Parties should discuss at once the question of establishing an appropriate procedure for the settlement of the possible disputes to which the Federal Government draw attention.

[In the reply to both Governments]

They also agree to consider this exchange of letters as an Annex to the Protocol modifying and completing the Brussels Treaty within the meaning of Article IV, paragraph 1 of the said Protocol.

4. PROTOCOL NO. II ON FORCES OF WESTERN EUROPEAN UNION, OCTOBER 23, 1954 [1]

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, and Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Having consulted the North Atlantic Council,

Have appointed . . . . . . ,

Have agreed as follows:

Article 1

1. The land and air forces which each of the High Contracting Parties to the present Protocol shall place under the Supreme Allied Commander Europe in peacetime on the mainland of Europe shall not exceed in total strength and number of formations:

(a) for Belgium, France, the Federal Republic of Germany, Italy and the Netherlands, the maxima laid down for peacetime in the Special Agreement annexed to the Treaty on the Establishment of a European Defence Community signed at Paris, on 27th May, 1952;[2] and
(b) for the United Kingdom, four divisions and the Second Tactical Air Force;
(c) for Luxembourg, one regimental combat team.

2. The number of formations mentioned in paragraph 1 may be brought up to date and adapted as necessary to make them suitable for the North Atlantic Treaty Organization, provided that the equivalent fighting capacity and total strengths are not exceeded.

3. The statement of these maxima does not commit any of the High Contracting Parties to build up or maintain forces at these levels, but maintains their right to do so if required.

Article 2

As regards naval forces, the contribution to NATO Commands of each of the High Contracting Parties to the present Protocol shall be determined each year in the course of the Annual Review (which takes into account the recommendations of the NATO military authorities). The naval forces of the Federal Republic of Germany shall consist of the vessels and formations necessary for the defensive missions assigned to it by the North Atlantic Treaty Organization within the limits laid down in the Special Agreement mentioned in Article 1, or equivalent fighting capacity.

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[1] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 42–44. Entered into force May 6, 1955.

[2] For treaty constituting the European Defense Community, see *infra*, doc. 16. The Special Agreement annexed to the Treaty on the Establishment of a European Defense Community has not been published.

Article 3

If at any time during the Annual Review recommendations are put forward, the effect of which would be to increase the level of forces above the limits specified in Articles 1 and 2, the acceptance by the country concerned of such recommended increases shall be subject to the unanimous approval of the High Contracting Parties to the present Protocol expressed either in the Council of Western European Union or in the North Atlantic Treaty Organization.

Article 4

In order that it may establish that the limits specified in Articles 1 and 2 are being observed, the Council of Western European Union will regularly receive information acquired as a result of inspections carried out by the Supreme Allied Commander Europe. Such information will be transmitted by a high-ranking officer designated for the purpose by the Supreme Allied Commander Europe.

Article 5

The strength and armaments of the internal defence and police forces on the mainland of Europe of the High Contracting Parties to the present Protocol shall be fixed by agreements within the Organization of Western European Union, having regard to their proper functions and needs and to their existing levels.

Article 6

Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland will continue to maintain on the mainland of Europe, including Germany, the effective strength of the United Kingdom forces which are now assigned to the Supreme Allied Commander Europe, that is to say four divisions and the Second Tactical Air Force, or such other forces as the Supreme Allied Commander Europe regards as having equivalent fighting capacity. She undertakes not to withdraw these forces against the wishes of the majority of the High Contracting Parties who should take their decision in the knowledge of the views of the Supreme Allied Commander Europe. This undertaking shall not, however, bind her in the event of an acute overseas emergency. If the maintenance of the United Kingdom forces on the mainland of Europe throws at any time too great a strain on the external finances of the United Kingdom, she will, through Her Government in the United Kingdom of Great Britain and Northern Ireland, invite the North Atlantic Council to review the financial conditions on which the United Kingdom formations are maintained.

IN WITNESS whereof, the above-mentioned Plenipotentiaries have signed the present Protocol, being one of the Protocols listed in Article

I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

Done at Paris this 23rd day of October, 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

. . . .

5. PROTOCOL NO. III (AND ANNEXES) ON THE CONTROL OF ARMAMENTS, OCTOBER 23, 1954 [1]

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Have appointed . . . .,

Have agreed as follows:

Part I—Armaments not to be manufactured

Article 1

The High Contracting Parties, members of Western Europe Union, take note of and record their agreement with the Declaration of the Chancellor of the Federal Republic of Germany (made in London on 3rd October, 1954, and annexed hereto as Annex I) in which the Federal Republic of Germany undertook not to manufacture in its territory atomic, biological and chemical weapons. The types of armaments referred to in this Article are defined in Annex II. These armaments shall be more closely defined and the definitions brought up to date by the Council of Western European Union.

Article 2

The High Contracting Parties, members of Western European Union, also take note of and record their agreement with the undertaking given by the Chancellor of the Federal Republic of Germany in the same Declaration that certain further types of armaments will not be manufactured in the territory of the Federal Republic of Germany, except that if in accordance with the needs of the armed forces a recommendation for an amendment to, or cancellation of, the content of the list of these armaments is made by the competent

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[1] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 45–50. Entered into force May 6, 1955.

Supreme Commander of the North Atlantic Treaty Organization, and if the Government of the Federal Republic of Germany submits a request accordingly, such an amendment or cancellation may be made by a resolution of the Council of Western European Union passed by a two-thirds majority. The types of armaments referred to in this Article are listed in Annex III.

Part II—Armaments to be controlled

Article 3

When the development of atomic, biological and chemical weapons in the territory on the mainland of Europe of the High Contracting Parties who have not given up the right to produce them has passed the experimental stage and effective production of them has started there, the level of stocks that the High Contracting Parties concerned will be allowed to hold on the mainland of Europe shall be decided by a majority vote of the Council of Western European Union.

Article 4

Without prejudice to the foregoing Articles, the types of armaments listed in Annex IV will be controlled to the extent and in the manner laid down in Protocol No. IV.

Article 5

The Council of Western European Union may vary the list in Annex IV by unanimous decision.

IN WITNESS whereof, the above-mentioned Plenipotentiaries have signed the present Protocol, being one of the Protocols listed in Article I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

DONE at Paris on the 23rd day of October 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

. . . .

ANNEX I

The Federal Chancellor declares:

that the Federal Republic undertakes not to manufacture in its territory any atomic weapons, chemical weapons or biological weapons, as detailed in paragraphs I, II and III of the attached list;[1]

that it undertakes further not to manufacture in its territory such weapons as those detailed in paragraphs IV, V and VI of the attached list.[2] Any amendment to or cancellation of the substance of paragraphs IV, V and VI can, on the request of the Federal Republic, be carried out by a resolution of the Brussels Council of Ministers by a two-thirds majority, if in accordance with the needs of the armed forces a request is made by the competent Supreme Commander of the North Atlantic Treaty Organization;

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[1] Reproduced in Annex II.

[2] Reproduced in Annex III.

that the Federal Republic agrees to supervision by the competent authority of the Brussels Treaty Organization to ensure that these undertakings are observed.

ANNEX II

This list comprises the weapons defined in paragraphs I to III and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms, which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

I. *Atomic Weapons*

(a) An atomic weapon is defined as any weapon which contains, or is designed to contain or utilise nuclear fuel or radioactive isotopes and which, by explosition or other uncontrolled nuclear transformation of the nuclear fuel, or by radioactivity of the nuclear fuel or radioactive isotopes, is capable of mass destruction, mass injury or mass poisoning.

(b) Furthermore, any part, device, assembly or material especially designed for, or primarily useful in, any weapon as set forth under paragraph (a), shall be deemed to be an atomic weapon.

(c) Nuclear fuel as used in the preceding definition includes plutonium, Uranium 233, Uranium 235 (including Uranium 235 contained in Uranium enriched to over 2.1 per cent by weight of Uranium 235) and any other material capable of releasing substantial quantities of atomic energy through nuclear fission or fusion or other nuclear reaction of the material. The foregoing materials shall be considered to be nuclear fuel regardless of the chemical or physical form in which they exist.

II. *Chemical Weapons*

(a) A chemical weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, the asphyxiating, toxic, irritant, paralysant, growth-regulating, anti-lubricating or catalysing properties of any chemical substance.

(b) Subject to the provisions of paragraph (c), chemical substances, having such properties and capable of being used in the equipment or apparatus referred to in paragraph (a), shall be deemed to be included in this definition.

(c) Such apparatus and such quantities of the chemical substances as are referred to in paragraphs (a) and (b) which do not exceed peaceful civilian requirements shall be deemed to be excluded from this definition.

III. *Biological Weapons*

(a) A biological weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, harmful insects or other living or dead organisms, or their toxic products.

(b) Subject to the provisions of paragraph (c), insects, organisms and their toxic products of such nature and in such amounts as to make them capable of being used in the equipment or apparatus referred to in (a) shall be deemed to be included in this definition.

(c) Such equipment or apparatus and such quantities of the insects, organisms and their toxic products as are referred to in paragraphs (a) and (b) which do not exceed peaceful civilian requirements shall be deemed to be excluded from the definition of biological weapons.

ANNEX III

This list comprises the weapons defined in paragraphs IV to VI and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms, which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

IV. *Long-range Missiles, Guided Missiles and Influence Mines*

(a) Subject to the provisions of paragraph (d), long-range missiles and guided missiles are defined as missiles such that the speed or direction of motion can be influenced after the instant of launching by a device or mechanism inside or outside the missile, including V-type weapons developed in the recent war and subsequent modifications thereof. Combustion is considered as a mechanism which may influence the speed.

(b) Subject to the provisions of paragraph (d), influence mines are defined as naval mines which can be exploded automatically by influences which emanate solely from external sources, including influence mines developed in the recent war and subsequent modifications thereof.

(c) Parts, devices or assemblies specially designed for use in or with the weapons referred to in paragraphs (a) and (b) shall be deemed to be included in this definition.

(d) Proximity fuses, and short-range guided missiles for anti-aircraft defence with the following maximum characteristics are regarded as excluded from this definition:

Length, 2 metres;
Diameter, 30 centimetres;
Speed, 660 metres per second;
Ground range, 32 kilometres;
Weight of war-head, 22.5 kilogrammes.

V. *Warships, with the exception of smaller ships for defence purposes*

"Warships, with the exception of smaller ships for defence purposes are:

(a) Warships of more than 3,000 tons displacement;
(b) Submarines of more than 350 tons displacement;
(c) All warships which are driven by means other than steam, Diesel or petrol engines or by gas turbines or by jet engines."

VI. *Bomber aircraft for strategic purposes*

ANNEX IV

List of Types of Armaments To Be Controlled

1. (a) Atomic
   (b) biological, and
   (c) chemical weapons.

   In accordance with definitions to be approved by the Council of Western European Union as indicated in Article I of the present Protocol.
2. All guns, howitzers and mortars of any types and of any rôles of more than 90 mm. calibre including the following component for these weapons, viz., the elevating mass.
3. All guided missiles.
   Definition: Guided missiles are such that the speed or direction or motion can be influenced after the instant of launching by a device or mechanism inside or outside the missile; these include V-type weapons developed in the recent war and modifications thereto. Combustion is considered as a mechanism which may influence the speed.
4. Other self-propelled missiles of a weight exceeding 15 kilogrammes in working order.
5. Mines of all types except anti-tank and anti-personnel mines.
6. Tanks, including the following component parts for these tanks, viz:

   (a) the elevating mass;
   (b) turret castings and/or plate assembly.

7. Other armoured fighting vehicles of an overall weight of more than 10 metric tons.

8. (a) Warships over 1,500 tons displacement;
   (b) submarines;
   (c) all warships powered by means other than steam, diesel or petrol engines or gas turbines;
   (d) small craft capable of a speed of over 30 knots, equipped with offensive armament.
9. Aircraft bombs of more than 1,000 kilogrammes.
10. Ammunition for the weapons described in paragraph 2 above.
11. (a) Complete military aircraft other than:
      (i) all training aircraft except operational types used for training purposes;
      (ii) military transport and communication aircraft;
      (iii) helicopters;
    (b) air frames, specifically and exclusively designed for military aircraft except those at (i), (ii) and (iii) above;
    (c) jet engines, turbo-propeller engines and rocket motors, when these are the principal motive power.

6. PROTOCOL NO. IV ON THE AGENCY OF WESTERN EUROPEAN UNION FOR THE CONTROL OF ARMAMENTS, OCTOBER 23, 1954 [1]

His Majesty the King of the Belgians, the President of the French Republic, President of the French Union, the President of the Federal Republic of Germany, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands, Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth, Signatories of the Protocol Modifying and Completing the Brussels Treaty,

Having agreed in accordance with Article IV of the Protocol Modifying and Completing the Treaty, to establish an Agency for the Control of Armaments,

Have appointed . . . . .,

Have agreed as follows:

Part I—Constitution

Article 1

The Agency for the Control of Armaments (hereinafter referred to as "the Agency") shall be responsible to the Council of Western European Union (hereinafter referred to as "the Council"). It shall consist of a Director assisted by a Deputy Director, and supported by a staff drawn equitably from nationals of the High Contracting Parties, Members of Western European Union.

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[1] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 51–56. Entered into force May 6, 1955.

Article 2

The Director and his staff, including any officials who may be put at the disposal of the Agency by States Members, shall be subject to the general administrative control of the Secretary General of Western European Union.

Article 3

The Director shall be appointed by unanimous decision of the Council for a period of five years and shall not be eligible for re-appointment. He shall be responsible for the selection of his staff in accordance with the principle mentioned in Article 1 and in consultation with the individual States Members concerned. Before filling the posts of Deputy Director and of the Heads of Departments of the Agency, the Director shall obtain from the Council approval of the persons to be appointed.

Article 4

1. The Director shall submit to the Council, through the Secretary General, a plan for the organization of the Agency. The organization should provide for departments dealing respectively with:

   (a) the examination of statistical and budgetary information to be obtained from the members of Western European Union and from the appropriate NATO authorities;
   (b) inspections, test checks and visits;
   (c) administration.

2. The organization may be modified by decision of the Council.

Article 5

The costs of maintaining the Agency shall appear in the budget of Western Union. The Director shall submit, through the Secretary General, to the Council an annual estimate of these costs.

Article 6

Officials of the Agency shall be bound by the full NATO code of security. They shall in no circumstances reveal information obtained in connexion with the execution of their official tasks except and only in the performance of their duties towards the Agency.

Part II—Functions

Article 7

1. The tasks of the Agency shall be:

   (a) to satisfy itself that the undertakings set out in Protocol No. III not to manufacture certain types of armaments mentioned in Annexes II and III to that Protocol are being observed;

(b) to control, in accordance with Part III of the present Protocol, the level of stocks of armaments of the types mentioned in Annex IV to Protocol No. III held by each member of Western European Union on the mainland of Europe. This control shall extend to production and imports to the extent required to make the control of stocks effective.

2. For the purposes mentioned in paragraph 1 of this Article, the Agency shall:

(a) scrutinise statistical and budgetary information supplied by members of Western European Union and by the NATO authorities;
(b) undertake on the mainland of Europe test checks, visits and inspections at production plants, depots and forces (other than depots or forces under NATO authority);
(c) report to the Council.

Article 8

With respect to forces and depots under NATO authority, test checks, visits and inspections shall be undertaken by the appropriate authorities of the North Atlantic Treaty Organization. In the case of the forces and depots under the Supreme Allied Commander Europe, the Agency shall receive notification of the information supplied to the Council through the medium of the high-ranking officer to be designated by him.

Article 9

The operations of the Agency shall be confined to the mainland of Europe.

Article 10

The Agency shall direct its attention to the production of end-items and components listed in Annexes II, III and IV of Protocol No. III, and not to processes. It shall ensure that materials and products destined for civilian use are excluded from its operations.

Article 11

Inspections by the Agency shall not be of a routine character, but shall be in the nature of tests carried out at irregular intervals. Such inspections shall be conducted in a spirit of harmony and co-operation. The Director shall propose to the Council detailed regulations for the conduct of the inspections providing, inter alia, for due process of law in respect of private interests.

Article 12

For their test checks, visits and inspections the members of the Agency shall be accorded free access on demand to plants and depots, and the relevant accounts and documents shall be made available to them. The Agency and national authorities shall co-operate in such checks and inspections, and in particular national authorities may, at their own request, take part in them.

Part III—Levels of Stocks of Armaments

Article 13

1. Each member of Western European Union shall, in respect of its forces under NATO authority stationed on the mainland of Europe, furnish annually to the Agency statements of:

(a) the total quantities of armaments of the types mentioned in Annex IV to Protocol No. III required in relation to its forces;
(b) the quantities of such armaments currently held at the beginning of the control years;
(c) the programmes for attaining the total quantities mentioned in (a) by:

  (i) manufacture in its own territory;
  (ii) purchase from another country;
  (iii) end-item aid from another country.

2. Such statements shall also be furnished by each member of Western European Union in respect of its internal defence and police forces and its other forces under national control stationed on the mainland of Europe including a statement of stocks held there for its forces stationed overseas.

3. The statements shall be correlated with the relevant submissions to the North Atlantic Treaty Organization.

Article 14

As regards the forces under NATO authority, the Agency shall verify in consultation with the appropriate NATO authorities that the total quantities stated under Article 13 are consistent with the quantities recognised as required by the units of the members concerned under NATO authority, and with the conclusions and data recorded in the documents approved by the North Atlantic Council in connexion with the NATO Annual Review.

Article 15

As regards internal defence and police forces, the total quantities of their armaments to be accepted as appropriate by the Agency shall be those notified by the members, provided that they remain within the limits laid down in the further agreements to be concluded by the members of Western European Union on the strength and armaments of the internal defence and police forces on the mainland of Europe.

Article 16

As regards other forces remaining under national control, the total quantities of their armaments to be accepted as appropriate by the Agency shall be those notified to the Agency by the members.

Article 17

The figures furnished by members for the total quantities of armaments under Articles 15 and 16 shall correspond to the size and mission of the forces concerned.

Article 18

The provisions of Articles 14 and 17 shall not apply to the High Contracting Parties and to the categories of weapons covered in Article 3 of Protocol No. III. Stocks of the weapons in question shall be determined in conformity with the procedure laid down in that Article and shall be notified to the Agency by the Council of the Western European Union.

Article 19

The figures obtained by the Agency under Articles 14, 15, 16 and 18 shall be reported to the Council as appropriate levels for the current control year for the members of Western European Union. Any discrepancies between the figures stated under Article 13, paragraph 1, and the quantities recognised under Article 14 will also be reported.

Article 20

1. The Agency shall immediately report to the Council if inspection, or information from other sources, reveals:

(a) the manufacture of armaments of a type which the member concerned has undertaken not to manufacture;
(b) the existence of stocks of armaments in excess of the figures and quantities ascertained in accordance with Articles 19 and 22.

2. If the Council is satisfied that the infraction reported by the Agency is not of major importance and can be remedied by prompt local action, it will so inform the Agency and the member concerned, who will take the necessary steps.

3. In the case of other infractions, the Council will invite the member concerned to provide the necessary explanation within a period to be determined by the Council; if this explanation is considered unsatisfactory, the Council will take the measures which it deems necessary in accordance with a procedure to be determined.

4. Decisions of the Council under this Article will be taken by majority vote.

Article 21

Each member shall notify to the Agency the names and locations of the depots on the mainland of Europe containing armaments subject to control and of the plants on the mainland of Europe manufacturing such armaments, or, even though not in operation, specifically intended for the manufacture of such armaments.

Article 22

Each member of Western European Union shall keep the Agency informed of the quantities of armaments of the types mentioned in Annex IV to Protocol No. III, which are to be exported from its territory on the mainland of Europe. The Agency shall be entitled to satisfy itself that the armaments concerned are in fact exported. If the level of stocks of any item subject to control appears abnormal, the Agency shall further be entitled to enquire into the orders for export.

Article 23

The Council shall transmit to the Agency information received from the Governments of the United States of America and Canada respecting military aid to be furnished to the forces on the mainland of Europe of members of Western European Union.

IN WITNESS whereof, the above-mentioned Plenipotentiaries have signed the present Protocol, being one of the Protocols listed in Article I of the Protocol Modifying and Completing the Treaty, and have affixed thereto their seals.

DONE at Paris this 23rd day of October 1954, in two texts, in the English and French languages, each text being equally authoritative, in a single copy, which shall remain deposited in the archives of the Belgian Government and of which certified copies shall be transmitted by that Government to each of the other Signatories.

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7. STATEMENT BY THE PRESIDENT ON UNITED STATES POLICY RESPECTING THE WESTERN EUROPEAN UNION, MARCH 10, 1955[1]

The White House announced on March 10, 1955, that the following message had been sent by President Eisenhower to the Prime Ministers of the seven nations signatory to the protocols establishing the Western European Union—Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, and the United Kingdom.

At the time when there was under consideration the Treaty to establish a European Defense Community, I made a public announcement of certain principles which would guide United States policies and actions with respect to Western Europe in the event that Treaty should be ratified.[2] Now, in substitution for that Community, a plan has been evolved for a Western European Union. Obviously that Union and related arrangements signed at Paris on October 23, 1954,[1] when brought into force, will serve the vital interests not only of the members of the Union, but of the peoples of the free world, including the United States. The United States has twice been drawn into wars which originated in Europe and today it maintains forces there to help minimize the possibility of another war. It is in the interest of the United States to help reduce such dangers.

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[1] Department of State *Bulletin*, Mar. 21, 1955, pp. 464–465.

[2] Statement of Apr. 15, 1954; *infra*, pp. 1198–1200.

To this end the United States committed itself to the North Atlantic Treaty. This Treaty is in accordance with the basic security interests of the United States, and the obligations which the United States has assumed under the Treaty will be honored.

The member nations are seeking to make the Atlantic alliance an enduring association of free peoples within which all members can concert their efforts toward peace, prosperity and freedom. The success of that association will be determined in large measure by the degree of practical cooperation realized among the European nations themselves. The Western European Union and the related arrangements agreed upon in Paris are designed to ensure this cooperation and thereby to provide a durable basis for consolidating the Atlantic relationship as a whole.

It is my belief that the proposed arrangements when effective:

Will promote progress toward unity in Western Europe and draw together those whose past differences have led to recurrent war and gravely depleted Europe's human, material and moral strength;

Will restore sovereignty to the Federal Republic of Germany, a sovereignty which has now been withheld for ten years, during which time the Government and people of that Republic have demonstrated that they are capable of worthily discharging their responsibilities as a self-governing member of the free and peaceful world community;

Will, by controlling armament levels through an appropriate Agency of the Western European Union, assure against militarism;

Will provide a core of unity at the heart of the North Atlantic Treaty Organization, thus permitting adoption of practical defensive measures which offer good hope that any enemy attack could be stopped at the threshold;

Will enable the Federal Republic of Germany to make its appropriately measured contribution to international peace and security, in keeping with the spirit of the North Atlantic Treaty Organization;

Will, through action of the North Atlantic Treaty Council, assure a closer integration of the armed forces in Europe of the member countries, thereby giving assurance that these forces cannot be used for nationalistic aggression or otherwise than for the security purposes envisaged by the North Atlantic Treaty.

At London on September 29, 1954, the United States Secretary of State in order to facilitate efforts to produce an effective collective defense of Western Europe, indicated the conditions under which the United States might be prepared to make a policy declaration similar to that which was announced when the earlier European Defense

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[1] *Supra*, docs. 2–6 and pp. 483–612 and 871–873.

Community plan was under consideration.[1] I am glad to affirm that when the Paris Agreements have been ratified and have come into force, it will be the policy of the United States:

(1) To continue active in the various organic arrangements established under the North Atlantic Treaty Organization and to consult with other members of NATO on questions of mutual concern, including the level of forces from the respective NATO countries to be placed at the disposal of the Supreme Allied Commander Europe;

(2) To consult, if so desired, with the Agency for the Control of Armaments of the Western European Union with a view to assisting in the achievement of its objective of controlling armament and preventing unjustified military preparations within the members of the Union;

(3) To continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to that area exists, and will continue to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area;

(4) To cooperate in developing the closest possible integration among the forces assigned to NATO in Western Europe, including those contributed by the German Federal Republic, in accordance with approved plans developed by the military agencies and the Supreme Commanders of the North Atlantic Treaty Organization in accordance with the Resolution adopted by the North Atlantic Council on October 22, 1954;[2]

(5) To continue to cooperate toward Atlantic Security by sharing information authorized by Congress with respect to the military utilization of new weapons and techniques for the improvement of the collective defense;

(6) In consonance with its policy of encouraging maximum cooperation among the free nations of Europe and in recognition of the contribution which the Brussels Treaty, as amended, will make to peace and stability in Europe, to regard any action from whatever quarter which threatens the integrity or unity of the Western European Union as a threat to the security of the parties to the North Atlantic Treaty calling for consultation in accordance with Article IV of that Treaty.[3]

In accordance with the basic interest of the United States in the North Atlantic Treaty, as expressed at the time of ratification, the Treaty was regarded as of indefinite duration rather than for any definite number of years. The United States calls attention to the fact that for it to cease to be a party to the North Atlantic Treaty would appear quite contrary to our security interests when there is established on the Continent of Europe the solid core of unity which the Paris Agreements will provide.

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[1] Statement by the Secretary of State at the Fourth Plenary Meeting of the Nine-Power Conference in the Annex to the Final Act, *infra*, pp. 1484–1487.

[2] *Infra*, pp. 1493–1496.

[3] *Supra*, p. 813.

The Organization of European Economic Cooperation

8. CONVENTION AND SUPPLEMENTARY PROTOCOLS, APRIL 16, 1948 [1]

The Governments of Austria, Belgium, Denmark, France, Greece, Ireland, Iceland, Italy, Luxemburg, Norway, the Netherlands, Portugal, the United Kingdom, Sweden, Switzerland and Turkey, and the Commanders-in-Chief of the French, United Kingdom and United States Zones of Occupation of Germany: [2]

Considering that a strong and prosperous European economy is essential for the attainment of the purpose of the United Nations, the preservation of individual liberty and the increase of general well-being, and that it will contribute to the maintenance of peace;

Recognising that their economic systems are inter-related and that the prosperity of each of them depends on the prosperity of all;

Believing that only by close and lasting co-operation between the Contracting Parties can the prosperity of Europe be restored and maintained, and the ravages of war made good;

Resolved to implement the principles and to achieve the aims set forth in the General Report of the Committee of European Economic Co-operation,[3] particularly the speedy establishment of sound economic conditions enabling the Contracting Parties as soon as possible to achieve and maintain a satisfactory level of economic activity without extraordinary outside assistance, and to make their full contribution to world economic stability;

Determined to combine their economic strength to these ends, to join together to make the fullest collective use of their individual capacities and potentialities, to increase their production, develop and modernise their industrial and agricultural equipment, expand their commerce, reduce progressively barriers to trade among themselves, promote full employment and restore or maintain the stability of their economies and general confidence in their national currencies;

Taking Note of the generous resolve of the American people expressed in the action taken to furnish the assistance without which the aims set forth above cannot be fully achieved;[1]

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[1] *Convention de coopération économique européenne—Convention for European Economic Cooperation* (Paris, 1948), pp. 13–43; also printed in Department of State publication 3145 (1948). Entered into force provisionally on the date of signature, Apr. 16, 1948; definitively, on the date of the deposit of the 6th ratification, July 28, 1948; ratifications completed by all signatories, Oct. 20, 1949. Under the Economic Cooperation Act of 1948 (62 Stat. 137), the United States established an informal relationship with OEEC. This relationship was restated in Ex. Or. 10133 of June 27, 1950 (15 *Fed. Reg.* 4159).

[2] On Oct. 25, 1949, the Government of the Federal Republic of Germany succeeded the Commanders-in-Chief of the French, U. K., and U. S. Zones of Occupation of Germany in the representation of Western Germany in the Organization. The Council of the Organization took note of this change on Oct. 31, 1949.

[3] *Committee of European Economic Cooperation*, vol. I, *General Report* (Department of State publication 2930; 1947).

RESOLVED to create the conditions and establish the institutions necessary for the success of European economic co-operation and for the effective use of American aid, and to conclude a Convention to this end;

HAVE ACCORDINGLY APPOINTED the undersigned Plenipotentiaries who, having presented their full powers, found in good and due form, have agreed on the following provisions:

Article 1

The Contracting Parties agree to work in close co-operation in their economic relations with one another.

As their immediate task, they will undertake the elaboration and execution of a joint recovery programme. The object of this programme will be to achieve as soon as possible and maintain a satisfactory level of economic activity without extraordinary outside assistance, and to this end the programme will take special account of the need of the Contracting Parties to develop their exports to non-participating countries to the maximum extent possible.

Accordingly the Contracting Parties pledge themselves to carry out, by their efforts of self-help and in a spirit of mutual aid, the following General Obligations, and hereby set up an Organisation for European Economic Co-operation, hereinafter referred to as the Organisation.

PART I

GENERAL OBLIGATIONS

Article 2

The Contracting Parties will, both individually and collectively, promote with vigour the development of production, through efficient use of the resources at their command, whether in their metropolitan or overseas territories, and by the progressive modernisation of equipment and techniques, in such manner as may best assist the accomplishment of the joint recovery programme.

Article 3

The Contracting Parties will, within the framework of the Organisation and as often and to such extent as may be necessary, draw up general programmes for the production and exchange of commodities and services. In so doing they will take into consideration their several estimates or programmes and general world economic conditions.

Each Contracting Party will use its best endeavours to secure the fulfilment of such general programmes.

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[1] See] the Economic Cooperation Act (Apr. 3, 1948); *A Decade of American Foreign Policy*, pp. 1299–1321.

Article 4

The Contracting Parties will develop, in mutual co-operation, the maximum possible interchange of goods and services. To this end they will continue the efforts already initiated to achieve as soon as possible a multilateral system of payments among themselves, and will co-operate in relaxing restrictions on trade and payments between one another, with the object of abolishing as soon as possible those restrictions which at present hamper such trade and payments.

In the application of this Article, the Contracting Parties will take due account of the necessity that they should, collectively and individually, correct or avoid excessive disequilibrium in their financial and economic relations, both amongst themselves and with non-participating countries.

Article 5

The Contracting Parties agree to strengthen their economic links by all methods which they may determine will further the objectives of the present Convention. They will continue the study of Customs Unions or analogous arrangements such as free trade areas, the formation of which might constitute one of the methods of achieving these objectives. Those Contracting Parties which have already agreed in principle to the creation of Customs Unions will further the establishment of such Unions as rapidly as conditions permit.

Article 6

The Contracting Parties will co-operate with one another and with other like-minded countries in reducing tariff and other barriers to the expansion of trade, with a view to achieving a sound and balanced multilateral trading system such as will accord with the principles of the Havana Charter.[1]

Article 7

Each Contracting Party will, having due regard to the need for a high and stable level of trade and employment and for avoiding or countering the dangers of inflation, take such steps as lie within its power to achieve or maintain the stability of its currency and of its internal financial position, sound rates of exchange and, generally, confidence in its monetary system.

Article 8

The Contracting Parties will make the fullest and most effective use of their available manpower.

They will endeavour to provide full employment for their own people and they may have recourse to manpower available in the territory of any other Contracting Party. In the latter case they will, in mutual agreement, take the necessary measures to facilitate the movement of workers and to ensure their establishment in conditions satisfactory from the economic and social point of view.

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[1] Draft charter of Mar. 24, 1948; *Havana Charter for an International Trade Organization and Final Act and Related Documents* (Department of State publication 3117; 1948); abridged text in *A Decade of American Foreign Policy*, pp. 391–409.

Generally, the Contracting Parties will co-operate in the progressive reduction of obstacles to the free movement of persons.

Article 9

The Contracting Parties will furnish the Organisation with all the information it may request of them in order to facilitate the accomplishment of its tasks.

PART II

THE ORGANISATION

Article 10

MEMBERSHIP

The Members of the Organisation shall be the Parties to the present Convention.

Article 11

AIM

The aim of the Organisation shall be the achievement of a sound European economy through the economic co-operation of its Members. An immediate task of the Organisation will be to ensure the success of the European recovery programme, in accordance with the undertakings contained in Part I of the present Convention.

Article 12

FUNCTIONS

Within the limits of such powers as are or may be agreed for the Organisation, its functions shall be:

(*a*) to prepare and implement, within the sphere of the collective action of the Members concerned, the measures necessary to achieve the aim laid down in Article 11 and to facilitate, promote and coordinate the individual action of the Members;

(*b*) to facilitate and review the implementation of the present Convention; to take such action as may be found appropriate in order to ensure its execution; and to this end, to provide for systems of observation and review adequate to ensure the efficient use both of external aid and of indigenous resources;

(*c*) to provide the United States Government with such assistance and information as may be agreed in relation to the execution of the European recovery programme and to address recommendations to that Government;

(*d*) at the request of the interested parties, to assist in the negotiation of such international agreements as may be necessary for the better execution of the European recovery programme.

The Organisation may also assume such other functions as may be agreed.

Article 13

POWERS

In order to achieve its aim as set out in Article 11 the Organisation may:

(*a*) take decisions for implementation by Members;
(*b*) enter into agreements with its Members, non-member countries, the United States Government and International Organisations;
(*c*) make recommendations to the United States Government, to other Governments and to International Organisations.

Article 14

DECISIONS

Unless the Organisation otherwise agrees for special cases, decisions shall be taken by mutual agreement of all the Members. The abstention of any Members declaring themselves not to be interested in the subject under discussion shall not invalidate decisions, which shall be binding for the other Members.

Article 15

THE COUNCIL

(*a*) A Council composed of all the Members shall be the body from which all decisions derive.

(*b*) The Council shall designate annually from among the Members a Chairman and two Vice-Chairmen.

(*c*) The Council shall be assisted by an Executive Committee and a Secretary-General. The Council may set up such technical committees or other bodies, as may be required for the performance of the functions of the Organisation. All such organs shall be responsible to the Council.

Article 16

THE EXECUTIVE COMMITTEE

(*a*) The Executive Committee shall consist of seven Members to be designated annually by the Council. It shall carry on its work in accordance with the general and specific instructions of the Council and shall report on it to the Council.

(*b*) The Council shall designate annually from among the Members of the Executive Committee a Chairman and a Vice-Chairman. It may also designate annually a Rapporteur-General and specify his functions.

(*c*) Any Member of the Organisation not represented on the Executive Committee may take part in all the discussions and decisions of that Committee on any item specially affecting the interests of that Member.

The Members of the Organisation shall be informed of the proceedings of the Executive Committee by the circulation in good time of agenda and summary records.

Article 17

THE SECRETARY-GENERAL

(*a*) The Secretary-General shall be assisted by a first and a second Deputy Secretary-General.

(*b*) The Secretary-General and the Deputy Secretaries-General shall be appointed by the Council. The Secretary-General shall be under the instructions of the Council.

(*c*) The Secretary-General shall attend or be represented at the meetings of the Council, the Executive Committee and, as required, at meetings of the technical committees and the other bodies, with the right to participate in discussion. He will prepare the meetings of the Council and of the Executive Committee and will ensure the execution of their decisions in accordance with the general and specific instructions of the Council and the Executive Committee.

Additional provisions as to the functions of the Secretary-General are set out in the Annex to the present Convention.

Article 18

SECRETARIAT

(*a*) The Secretary-General shall appoint such staff as the Organisation may require. Senior staff appointments and the staff regulations shall be subject to approval by the Council.

(*b*) Having regard to the international character of the Organisation, the Secretary-General and the staff shall neither seek nor receive instructions from any of the Members or from any Government or authority external to the Organisation.

Article 19

TECHNICAL COMMITTEES AND OTHER BODIES

Technical committees and other bodies set up under Article 15(*c*) shall be under the instructions of the Council. They shall be composed of the Members most concerned and will so organise their work that other interested Members may take part as may be necessary.

Article 20

RELATIONSHIPS WITH OTHER INTERNATIONAL ORGANISATIONS

(*a*) The Organisation shall establish such formal or informal relationships with the United Nations, its principal organs and subsidiary bodies and with the Specialised Agencies, as may best facilitate collaboration in the achievement of their respective aims.

(*b*) The Organisation may also maintain relationships with other international bodies.

Article 21

HEADQUARTERS

The Headquarters of the Organisation shall be determined by the Council at its first session. The Council, the several committees or the other bodies may meet elsewhere than at the Headquarters [of] the Organisation should they so decide.

Article 22

LEGAL CAPACITY, PRIVILEGES AND IMMUNITIES

(*a*) The Organisation shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes, as defined in Supplementary Protocol N° I, to the present Convention.

(*b*) The Organisation, its officials, and representatives of the Members of the Organisation shall be entitled to the privileges and immunities set out in the above mentioned Supplementary Protocol.

Article 23

FINANCIAL REGULATIONS

(*a*) The Secretary-General shall present to the Council for approval an annual budget and accounts drawn up in accordance with the Financial Regulations set out in Supplementary Protocol N° II, to the present Convention.

(*b*) The financial year of the Organisation shall begin on the 1st July.

(*c*) The expenses of the Organisation shall be borne by Members and shall be apportioned in accordance with the provisions of the above-mentioned Supplementary Protocol.

PART III

FINAL CLAUSES

Article 24

RATIFICATION AND COMING INTO FORCE

(*a*) The present Convention shall be ratified. Instruments of ratification shall be deposited with the Government of the French Republic.[1] The Convention shall come into force upon the deposit of instruments of ratification by not less than six of the Signatories. For each Signatory ratifying thereafter, the Convention shall come into force upon the deposit of its instrument of ratification.

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[1] The signatory states deposited their instruments of ratification on the following dates and in the following order: the United Kingdom, June 10, 1948; the U. S./U. K. Zone of Germany, June 15, 1948; Ireland, July 16, 1948; Austria, France, Iceland, and Sweden, July 28, 1948; Denmark, July 29, 1948; the French Zone of Germany, Aug. 2, 1948; Italy and Norway, Aug. 24, 1948; the Netherlands, Aug. 25, 1948; Belgium, Sept. 4, 1948; Turkey, Oct. 27, 1948; Switzerland, Nov. 26, 1948; Portugal, Apr. 4, 1949; Luxembourg, Apr. 14, 1949; and Greece, Oct. 20, 1949.

(*b*) Nevertheless, pending the coming into force of the Convention in the manner provided by the preceding paragraph, the Signatories agree, in order to avoid delay in its execution, to put it into operation on signature on a provisional basis and in accordance with their several constitutional requirements.

Article 25

ACCESSION

At any time after not less than ten instruments of ratification of the present Convention have been deposited, any non-signatory European country may accede to it by notification addressed to the Government of the French Republic, and with the assent of the Council of the Organisation. Accessions shall take effect on the date of such assent.[1]

Article 26

NON-FULFILMENT OF OBLIGATIONS

If any Member of the Organisation ceases to fulfil its obligations under the present Convention, it shall be invited to conform to the provisions of the Convention. If the said Member should not so conform within the period indicated in the invitation, the other Members may decide, by mutual agreement, to continue their co-operation within the Organisation without that Member.

Article 27

WITHDRAWAL

Any of the Contracting Parties may terminate the application of the present Convention to itself by giving twelve months' notice to that effect to the Government of the French Republic.

Article 28

COMMUNICATION OF RATIFICATIONS, ACCESSIONS AND WITHDRAWALS

Upon the receipt of any instrument of ratification or accession, or of any notice of withdrawal, the Government of the French Republic shall give notice thereof to all the Contracting Parties and to the Secretary-General of the Organisation.

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[1] The British–United States Zone of the Free Territory of Trieste acceded to the convention with the assent of the Council of the Organization, given at its meeting on Oct. 14, 1948.

ANNEX

ADDITIONAL PROVISIONS CONCERNING THE FUNCTIONS OF THE SECRETARY-GENERAL

Provisions concerning the functions of the Secretary-General additional to those specified in Article 17 are set out below:

(1) He may submit proposals to the Council and to the Executive Committee.

(2) He shall provide, in agreement with the Chairmen of the technical committees, for these committees to be convened as required and for the necessary secretarial arrangements. He shall transmit to them, as necessary, the instructions of the Council and of the Executive Committee.

(3) He shall follow the work of the other bodies referred to in Article 15 (*c*) and transmit to them, as necessary the instructions of the Council and of the Executive Committee.

(4) He shall, having regard to the provisions of Article 20 and in accordance with the instructions of the Council and the Executive Committee, make the necessary arrangements for liaison with other International Organisations.

(5) He shall exercise all such other functions necessary for the efficient administration of the Organisation as may be entrusted to him by the Council or by the Executive Committee.

In faith whereof the undersigned Plenipotentiaries, being duly authorised to that effect, have signed the present Convention and have affixed thereto their Seals.

Done in Paris this sixteenth day of April, Nineteen Hundred and Forty Eight, in the English and French languages, both texts being equally authentic, in a single copy which shall remain deposited in the Archives of the Government of the French Republic, by which certified copies will be communicated to all the other Signatories.

. . . .

Supplementary Protocol No. I to the Convention for European Economic Cooperation on the Legal Capacity, Privileges and Immunities of the Organization.[1] *(Not reprinted here.)*

Supplementary Protocol No. II to the Convention for European Economic Cooperation on the Financial Regulations of the Organization.[2] *(Not reprinted here.)*

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[1] *Convention de coopération économique européenne—Convention for European Economic Cooperation* (Paris, 1948), pp. 47–65.

[2] *Ibid.*, pp. 69–77.

The Council of Europe

9. STATUTE, MAY 5, 1949, INCORPORATING AMENDMENTS APPROVED BY THE COMMITTEE OF MINISTERS AT STRASBOURG IN 1951 AND 1953 [1]

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Irish Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland;

Convinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation;

Reaffirming their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy;

Believing that, for the maintenance and further realisation of these ideals and in the interests of economic and social progress, there is need of a closer unity between all like-minded countries of Europe;

Considering that, to respond to this need and to the expressed aspirations of their peoples in this regard, it is necessary forthwith to create an organisation which will bring European States into closer association;

Have in consequence decided to set up a Council of Europe consisting of a Committee of representatives of Governments and of a Consultative Assembly, and have for this purpose adopted the following Statute:—

CHAPTER I

Aim of the Council of Europe

Article 1

(*a*) The aim of the Council of Europe is to achieve a greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.

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[1] British Treaty Series No. 24 (1955), Cmd. 9527. The text of the statute as originally signed appears in Treaty Series No. 51 (1949), Cmd. 7778, and also in *Congressional Record*, Oct. 13, 1949, pp. 14755–14759. See also *Explanatory Note on the Provisions of the Statute of the Council of Europe*, British Misc. No. 10 (1949), Cmd. 7720. Amendments: (1) May 22, 1951, see British Treaty Series No. 53 (1951), Cmd. 8293; (2) Dec. 18, 1951, see Irish Treaty Series No. 11 (1951); (3) May 4, 1953, see British Treaty Series No. 65 (1953), Cmd. 8956. Entered into force Aug. 3, 1949; ratifications completed by all signatories Aug. 8, 1949.

(*b*) This aim shall be pursued through the organs of the Council by discussion of questions of common concern and by agreements and common action in economic, social, cultural, scientific, legal and administrative matters and in the maintenance and further realisation of human rights and fundamental freedoms.

(*c*) Participation in the Council of Europe shall not affect the collaboration of its Members in the work of the United Nations and of other international organisations or unions to which they are parties.

(*d*) Matters relating to National Defence do not fall within the scope of the Council of Europe.

CHAPTER II

MEMBERSHIP

Article 2

The Members of the Council of Europe are the Parties to this Statute.

Article 3

Every Member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I.

Article 4

Any European State, which is deemed to be able and willing to fulfil the provisions of Article 3, may be invited to become a Member of the Council of Europe by the Committee of Ministers. Any State so invited shall become a Member on the deposit on its behalf with the Secretary-General of an instrument of accession to the present Statute.

Article 5

(*a*) In special circumstances, a European country, which is deemed to be able and willing to fulfil the provisions of Article 3, may be invited by the Committee of Ministers to become an Associate Member of the Council of Europe. Any country so invited shall become an Associate Member on the deposit on its behalf with the Secretary-General of an instrument accepting the present Statute. An Associate Member shall be entitled to be represented in the Consultative Assembly only.

(*b*) The expression "Member" in this Statute includes an Associate Member except when used in connexion with representation on the Committee of Ministers.

Article 6

Before issuing invitations under Article 4 or 5 above, the Committee of Ministers shall determine the number of representatives on the

Consultative Assembly to which the proposed Member shall be entitled and its proportionate financial contribution.

Article 7

Any Member of the Council of Europe may withdraw by formally notifying the Secretary-General of its intention to do so. Such withdrawal shall take effect at the end of the financial year in which it is notified, if the notification is given during the first nine months of that financial year. If the notification is given in the last three months of the financial year, it shall take effect at the end of the next financial year.

Article 8

Any Member of the Council of Europe, which has seriously violated Article 3, may be suspended from its rights of representation and requested by the Committee of Ministers to withdraw under Article 7. If such Member does not comply with this request, the Committee may decide that it has ceased to be a Member of the Council as from such date as the Committee may determine.

Article 9

The Committee of Ministers may suspend the right of representation on the Committee and on the Consultative Assembly of a Member, which has failed to fulfil its financial obligation, during such period as the obligation remains unfulfilled.

CHAPTER III

GENERAL

Article 10

The organs of the Council of Europe are:—

(i) the Committee of Ministers;
(ii) the Consultative Assembly.

Both these organs shall be served by the Secretariat of the Council of Europe.

Article 11

The seat of the Council of Europe is at Strasbourg.

Article 12

The official languages of the Council of Europe are English and French. The rules of procedure of the Committee of Ministers and of the Consultative Assembly shall determine in what circumstances and under what conditions other languages may be used.

CHAPTER IV

COMMITTEE OF MINISTERS

Article 13

The Committee of Ministers is the organ which acts on behalf of the Council of Europe in accordance with Articles 15 and 16.

Article 14

Each Member shall be entitled to one representative on the Committee of Ministers and each representative shall be entitled to one vote. Representatives on the Committee shall be the Ministers for Foreign Affairs. When a Minister for Foreign Affairs is unable to be present or in other circumstances where it may be desirable, an alternate may be nominated to act for him, who shall, whenever possible, be a member of his Government.

Article 15

(*a*) On the recommendation of the Consultative Assembly or on its own initiative, the Committee of Ministers shall consider the action required to further the aim of the Council of Europe, including the conclusion of conventions or agreements and the adoption by Governments of a common policy with regard to particular matters. Its conclusions shall be communicated to Members by the Secretary-General.

(*b*) In appropriate cases, the conclusions of the Committee may take the form of recommendations to the Governments of Members, and the Committee may request the Governments of Members to inform it of the action taken by them with regard to such recommendations.

Article 16

The Committee of Ministers shall, subject to the provisions of Articles 24, 28, 30, 32, 33 and 35, relating to the powers of the Consultative Assembly, decide with binding effect all matters relating to the internal organisation and arrangements of the Council of Europe. For this purpose the Committee of Ministers shall adopt such financial and administrative regulations as may be necessary.

Article 17

The Committee of Ministers may set up advisory and technical committees or commissions for such specific purposes as it may deem desirable.

Article 18

The Committee of Ministers shall adopt its rules of procedure which shall determine amongst other things:—

(i) the quorum;
(ii) the method of appointment and term of office of its President;

(iii) the procedure for the admission of items to its agenda, including the giving of notice of proposals for resolutions; and
(iv) the notifications required for the nomination of alternates under Article 14.

Article 19

At each session of the Consultative Assembly the Committee of Ministers shall furnish the Assembly with statements of its activities, accompanied by appropriate documentation.

Article 20

(*a*) Resolutions of the Committee of Ministers relating to the following important matters, namely:—

(i) recommendations under Article 15 (*b*);
(ii) questions under Article 19;
(iii) questions under Article 21 (*a*) (i) and (*b*);
(iv) questions under Article 33;
(v) recommendations for the amendment of Articles 1 (*d*), 7, 15, 20 and 22; and
(vi) any other question which the Committee may, by a resolution passed under (*d*) below, decide should be subject to a unanimous vote on account of its importance,

require the unanimous vote of the representatives casting a vote, and of a majority of the representatives entitled to sit on the Committee.

(*b*) Questions arising under the rules of procedure or under the financial and administrative regulations may be decided by a simple majority vote of the representatives entitled to sit on the Committee.

(*c*) Resolutions of the Committee under Articles 4 and 5 require a two-thirds majority of all the representatives entitled to sit on the Committee.

(*d*) All other resolutions of the Committee, including the adoption of the Budget, of rules of procedure and of financial and administrative regulations, recommendations for the amendment of articles of this Statute, other than those mentioned in paragraph (*a*) (v) above, and deciding in case of doubt which paragraph of this Article applies, require a two-thirds majority of the representatives casting a vote and of a majority of the representatives entitled to sit on the Committee.

Article 21

(*a*) Unless the Committee decides otherwise, meetings of the Committee of Ministers shall be held—

(i) in private, and
(ii) at the seat of the Council.

(*b*) The Committee shall determine what information shall be published regarding the conclusions and discussions of a meeting held in private.

(*c*) The Committee shall meet before and during the beginning of every session of the Consultative Assembly and at such other times as it may decide.

CHAPTER V

THE CONSULTATIVE ASSEMBLY

Article 22

The Consultative Assembly is the deliberative organ of the Council of Europe. It shall debate matters within its competence under this Statute and present its conclusions, in the form of recommendations, to the Committee of Ministers.

Article 23 [1]

(*a*) The Consultative Assembly may discuss and make recommendations upon any matter within the aim and scope of the Council of Europe as defined in Chapter I. It shall also discuss and may make recommendations upon any matter referred to it by the Committee of Ministers with a request for its opinion.

(*b*) The Assembly shall draw up its Agenda in accordance with the provisions of paragraph (*a*) above. In so doing, it shall have regard to the work of other European intergovernmental organisations to which some or all of the Members of the Council are parties.

(*c*) The President of the Assembly shall decide, in case of doubt, whether any question raised in the course of the Session is within the Agenda of the Assembly.

Article 24

The Consultative Assembly may, with due regard to the provisions of Article 38 (*d*), establish committees or commissions to consider and report to it on any matter which falls within its competence under Article 23, to examine and prepare questions on its Agenda and to advise on all matters of procedure.

Article 25 [2]

(*a*) The Consultative Assembly shall consist of Representatives of each Member elected by its Parliament or appointed in such manner as that Parliament shall decide, subject, however, to the right of each Member Government to make any additional appointments necessary when the Parliament is not in session and has not laid down the procedure to be followed in that case. Each Representative must be a national of the Member whom he represents, but shall not at the same time be a member of the Committee of Ministers.

The term of office of Representatives thus appointed will date from the opening of the Ordinary Session following their appointment; it will expire at the opening of the next Ordinary Session or of a later

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[1] As amended in May 1951.

[2] First sentence of paragraph (*a*) as amended in May 1951—The last two sub-paragraphs of paragraph (*a*) were added in May 1953.

Ordinary Session, except that, in the event of elections to their Parliaments having taken place, Members shall be entitled to make new appointments.

If a Member fills vacancies due to death or resignation, or proceeds to make new appointments as a result of elections to its Parliament, the term of office of the new Representatives shall date from the first Sitting of the Assembly following their appointment.

(*b*) No Representative shall be deprived of his position as such during a session of the Assembly without the agreement of the Assembly.

(*c*) Each Representative may have a substitute who may, in the absence of the Representative, sit, speak and vote in his place. The provisions of paragraph (*a*) above apply to the appointment of substitutes.

Article 26 [1]

Members shall be entitled to the number of Representatives given below:—

Belgium	7
Denmark	5
France	18
Germany (Federal Republic)	18
Greece	7
Iceland	3
Ireland	4
Italy	18
Luxembourg	3
Netherlands	7
Norway	5
Saar	3
Sweden	6
Turkey	10
United Kingdom of Great Britain and Northern Ireland	18

Article 27 [2]

The conditions under which the Committee of Ministers collectively may be represented in the debates of the Consultative Assembly, or individual Representatives on the Committee or their alternates may address the Assembly, shall be determined by such rules of procedure on this subject as may be drawn up by the Committee after consultation with the Assembly.

Article 28

(*a*) The Consultative Assembly shall adopt its rules of procedure and shall elect from its members its President, who shall remain in office until the next ordinary session.

(*b*) The President shall control the proceedings but shall not take part in the debate or vote. The substitute of the Representative who is President may sit, speak and vote in his place.

(*c*) The rules of procedure shall determine *inter alia:*

(i) the quorum;

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[1] As amended in December 1951.

[2] As amended in May 1951.

(ii) the manner of the election and terms of office of the President and other officers;
(iii) the manner in which the Agenda shall be drawn up and be communicated to Representatives; and
(iv) the time and manner in which the names of Representatives and their substitutes shall be notified.

Article 29

Subject to the provisions of Article 30, all resolutions of the Consultative Assembly, including resolutions:

(i) embodying recommendations to the Committee of Ministers;
(ii) proposing to the Committee matters for discussion in the Assembly;
(iii) establishing committees or commissions;
(iv) determining the date of commencement of its sessions;
(v) determining what majority is required for resolutions in cases not covered by (i) to (iv) above or determining cases of doubt as to what majority is required,

shall require a two-thirds majority of the Representatives casting a vote.

Article 30

On matters relating to its internal procedure, which includes the election of officers, the nomination of persons to serve on committees and commissions and the adoption of rules of procedure, resolutions of the Consultative Assembly shall be carried by such majorities as the Assembly may determine in accordance with Article 29 (v).

Article 31

Debates on proposals to be made to the Committee of Ministers that a matter should be placed on the Agenda of the Consultative Assembly shall be confined to an indication of the proposed subject-matter and the reasons for and against its inclusion in the Agenda.

Article 32

The Consultative Assembly shall meet in ordinary session once a year, the date and duration of which shall be determined by the Assembly so as to avoid as far as possible overlapping with parliamentary sessions of Members and with sessions of the General Assembly of the United Nations. In no circumstances shall the duration of an ordinary session exceed one month unless both the Assembly and the Committee of Ministers concur.

Article 33

Ordinary sessions of the Consultative Assembly shall be held at the seat of the Council unless both the Assembly and the Committee of Ministers concur that the session should be held elsewhere.

Article 34 [1]

The Consultative Assembly may be convened in extraordinary sessions upon the initiative either of the Committee of Ministers or of the President of the Assembly after agreement between them, such agreement also to determine the date and place of the sessions.

Article 35

Unless the Consultative Assembly decides otherwise, its debates shall be conducted in public.

CHAPTER VI

SECRETARIAT

Article 36

(*a*) The Secretariat shall consist of a Secretary-General, a Deputy Secretary-General and such other staff as may be required.

(*b*) The Secretary-General and Deputy Secretary-General shall be appointed by the Consultative Assembly on the recommendation of the Committee of Ministers.

(*c*) The remaining staff of the Secretariat shall be appointed by the Secretary-General, in accordance with the administrative regulations.

(*d*) No member of the Secretariat shall hold any salaried office from any Government or be a member of the Consultative Assembly or of any national legislature or engage in any occupation incompatible with his duties.

(*e*) Every member of the staff of the Secretariat shall make a solemn declaration affirming that his duty is to the Council of Europe and that he will perform his duties conscientiously, uninfluenced by any national considerations, and that he will not seek or receive instructions in connexion with the performance of his duties from any Government or any authority external to the Council and will refrain from any action which might reflect on his position as an international official responsible only to the Council. In the case of the Secretary-General and the Deputy Secretary-General this declaration shall be made before the Committee, and in the case of all other members of the staff, before the Secretary-General.

(*f*) Every Member shall respect the exclusively international character of the responsibilities of the Secretary-General and the staff of the Secretariat and not seek to influence them in the discharge of their responsibilities.

Article 37

(*a*) The Secretariat shall be located at the seat of the Council.

(*b*) The Secretary-General is responsible to the Committee of Ministers for the work of the Secretariat. Amongst other things, he shall, subject to Article 38 (*d*), provide such secretariat and other assistance as the Consultative Assembly may require.

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[1] As amended in May 1951.

CHAPTER VII

FINANCE

Article 38[1]

(*a*) Each Member shall bear the expenses of its own representation in the Committee of Ministers and in the Consultative Assembly.

(*b*) The expenses of the Secretariat and all other common expenses shall be shared between all Members in such proportions as shall be determined by the Committee on the basis of the population of Members.

The contributions of an Associate Member shall be determined by the Committee.

(*c*) In accordance with the financial regulations, the Budget of the Council shall be submitted annually by the Secretary-General for adoption by the Committee.

(*d*) The Secretary-General shall refer to the Committee requests from the Assembly which involve expenditure exceeding the amount already allocated in the Budget for the Assembly and its activities.

(*e*) The Secretary-General shall also submit to the Committee of Ministers an estimate of the expenditure to which the implementation of each of the recommendations presented to the Committee would give rise. Any resolution the implementation of which requires additional expenditure shall not be considered as adopted by the Committee of Ministers unless the Committee has also approved the corresponding estimates for such additional expenditure.

Article 39

The Secretary-General shall each year notify the Government of each Member of the amount of its contribution, and each Member shall pay to the Secretary-General the amount of its contribution, which shall be deemed to be due on the date of its notification, not later than six months after that date.

CHAPTER VIII

PRIVILEGES AND IMMUNITIES

Article 40

(*a*) The Council of Europe, Representatives of Members and the Secretariat shall enjoy in the territories of its Members such privileges and immunities as are reasonably necessary for the fulfilment of their functions. These immunities shall include immunity for all Representatives in the Consultative Assembly from arrest and all legal proceedings in the territories of all Members, in respect of words spoken and votes cast in the debates of the Assembly or its committees or commissions.

(*b*) The Members undertake as soon as possible to enter into agreement for the purpose of fulfilling the provisions of paragraph (*a*) above. For this purpose the Committee of Ministers shall recommend to the Governments of Members the acceptance of an Agreement defining the privileges and immunities to be granted in the territories of all Members.[1] In addition a special Agreement shall be concluded with the Government of the French Republic defining the privileges and immunities which the Council shall enjoy at its seat.

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[1] Paragraph (*e*) of Article 38 was added in May 1951.

CHAPTER IX

AMENDMENTS

Article 41

(*a*) Proposals for the amendments of this Statute may be made in the Committee of Ministers or, in the conditions provided for in Article 23, in the Consultative Assembly.

(*b*) The Committee shall recommend and cause to be embodied in a Protocol those amendments which it considers to be desirable.

(*c*) An amending Protocol shall come into force when it has been signed and ratified on behalf of two-thirds of the Members.

(*d*) Notwithstanding the provisions of the preceding paragraphs of this Article, amendments to Articles 23–35, 38 and 39 which have been approved by the Committee and by the Assembly, shall come into force on the date of the certificate of the Secretary-General, transmitted to the Governments of Members, certifying that they have been so approved. This paragraph shall not operate until the conclusion of the second ordinary session of the Assembly.

CHAPTER X

FINAL PROVISIONS

Article 42

(*a*) This Statute shall be ratified. Ratifications shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland.[2]

(*b*) The present Statute shall come into force as soon as seven instruments of ratification have been deposited. The Government of the United Kingdom shall transmit to all signatory Governments a certificate declaring that the Statute has entered into force, and giving the names of the Members of the Council of Europe on that date.

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[1] British Treaty Series No. 34 (1953), Cmd. 8852.

[2] Instruments of ratification were deposited by the signatories in the following order and on the date indicated: Denmark, July 14, 1949; Sweden, July 20, 1949; the United Kingdom, July 26, 1949; Ireland, July 30, 1949; Norway, Aug. 2, 1949; Italy and Luxembourg, Aug. 3, 1949; France, Aug. 4, 1949; the Netherlands, Aug. 5, 1949; and Belgium, Aug. 8, 1949. Instruments of accession were deposited by the following countries in the order and on the dates indicated: Greece, Aug. 9, 1949; Iceland, Mar. 7, 1950; Turkey, Apr. 13, 1950; the Saar,* May 13, 1950; and the Federal Republic of Germany,* July 13, 1950.

(*Admitted as associate members. Germany became a full member, May 2, 1951.)

(*c*) Thereafter each other signatory shall become a party to this Statute as from the date of the deposit of its instrument of ratification.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Statute.

Done at London, this 5th day of May, 1949, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Government of the United Kingdom which shall transmit certified copies to the other signatory Governments.

. . . .

The European Payments Union

10. AGREEMENT, SEPTEMBER 19, 1950[1]

The Governments of the Federal Republic of Germany, the Republic of Austria, the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Kingdom of Greece, the Republic of Ireland, the Republic of Iceland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of Norway, the Kingdom of the Netherlands, the Portuguese Republic, the United Kingdom of Great Britain and Northern Ireland, Sweden, the Swiss Confederation, the Turkish Republic; and the Commander of the British-United States Zone of the Free Territory of Trieste;

DESIRING to establish among themselves a multilateral system of payments in order that trade, both visible and invisible, may proceed on a multilateral basis between them and the monetary areas associated with them;

CONSIDERING that such a system of payments must be designed to facilitate to the largest possible measure among the Contracting Parties the liberalisation, on a non-discriminatory basis, of trade and invisible transactions; to assist the Contracting Parties in their efforts to become independent of extraordinary outside assistance; to encourage the Contracting Parties to achieve or maintain a high and stable level of trade and employment, bearing in mind the need for their internal financial stability; and, finally, to assist the transition from their present situation to that which will succeed at the termination of the European Recovery Programme by providing them, in particular, both with resources to play in part the rôle of gold and foreign currency reserves and also with the possibility and incentive, should their position improve, to strengthen their reserves in gold and foreign currencies;

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[1] British Misc. No. 14 (1950), Cmd. 8064.

The Agreement has not definitively entered into force; provisionally it has been effective as of July 1, 1950 (see Protocol of Provisional Application of the Agreement, *infra*). Supplementary Protocols (not reprinted here): No. 2 of Aug. 4, 1951, British Misc. No. 12 (1951), Cmd. 8372; No. 3 of July 11, 1952, British Misc. No. 13 (1952), Cmd. 8644; No. 4 of June 30, 1953, Irish Treaty Series No. 9 (1953); No. 5 of June 30, 1954, British Misc. No. 25 (1954), Cmd. 9257; No. 6 of June 29, 1955, British Misc. No. 19 (1955), Cmd. 9601; unnumbered of Aug. 5, 1955 (Protocol Amending the Protocol of Provisional Application), *ibid.*; No. 7 of Aug. 5, 1955, *ibid.* Provisional entry into force of Protocols Nos. 2 through 6: Aug. 4, 1951, July 11, 1952, July 1, 1953, July 1, 1954; the unnumbered Protocol entered into force on the date of signature, Aug. 5, 1955; and the date of provisional entry into force of Protocol No. 7 was Aug. 1, 1955; the provisional entry into force date for Article I, and for the remainder of the articles was July 1, 1955. For clarification of the complex arrangements relating to the implementation of the agreement, see the article by Louis C. Boochever, Jr., "The European Payments Union"; Department of State *Bulletin*, May 12, 1952, pp. 732–736.

CONSIDERING that such a system of payments should permit the maintenance of desirable forms of specialisation in trade while facilitating a return to full multilateral trade, and should at the same time assist a return to the general convertibility of currencies;

CONSIDERING that such a system of payments must also be so designed that it can remain in force at the end of the period of operation of the European Recovery Programme and operate until it is possible to establish, by other methods, a multilateral system of European payments;

CONSIDERING, however, that the maintenance of the internal and external financial equilibrium of the Contracting Parties is an indispensable condition for the proper operation of this system of payments;

HAVING REGARD to the adoption on 18th August, 1950, of a Resolution of the Council of the Organisation for European Economic Co-operation (hereinafter referred to as the "Council") approving the text of the present Agreement, recommending it to Members of the Organisation for European Economic Co-operation (hereinafter referred to as the "Organisation") for signature, and providing that the Organisation should assume the functions envisaged under the present Agreement as from the date from which it will apply;

HAVE AGREED as follows:

PART I

GENERAL PROVISIONS

Article 1

EUROPEAN PAYMENTS UNION

The Contracting Parties hereby establish between themselves a European Payments Union (hereinafter referred to as the "Union") which shall be operated within the framework of the Organisation.

Article 2

PURPOSES OF THE UNION

The purposes of the Union shall be to facilitate, by means of a multilateral system of payments, the settlement of all transactions between the monetary areas of the Contracting Parties, authorised by the competent authorities in accordance with their respective currency transfer policies, and thus to assist the Contracting Parties to implement the decisions of the Organisation on commercial policy and the liberalisation of trade and of invisible transactions, and to attain the objectives and satisfy the conditions set out in the Preamble to the present Agreement.

Article 3

OPERATIONS

For the realisation of the purposes of the Union, operations (hereinafter referred to as the "operations") shall be carried out periodically whereby the bilateral surpluses and deficits of each Contracting Party shall be offset and the residual net surplus or deficit towards all other Contracting Parties taken together shall be settled with the Union in accordance with the provisions of the present Agreement.

Article 4

BILATERAL SURPLUSES AND DEFICITS

(*a*) A bilateral surplus or deficit shall be the surplus or deficit of one Contracting Party in relation to any other Contracting Party for any period in respect of which operations are carried out (hereinafter referred to as an "accounting period").

(*b*) Where the central bank of one Contracting Party keeps in the name of the central bank of another Contracting Party accounts reflecting the transactions referred to in Article 2, the bilateral surplus or deficit of those Contracting Parties shall be calculated on the basis of the difference, as between the beginning and the end of each accounting period, of the balances of those accounts.

(*c*) Where the central banks of two Contracting Parties do not keep with each other accounts reflecting the transactions referred to in Article 2, those Contracting Parties shall, unless the Organisation decides otherwise, take the measures necessary to enable their bilateral surpluses or deficits to be calculated.

(*d*) Repayment instalments in respect of consolidated debts or of outstanding debts amortised or repaid in accordance with the provisions of Annex A to the present Agreement shall be included in the calculation of bilateral surpluses or deficits.

(*e*) Amounts representing the proceeds of capital transactions, other than those referred to in Article 12 and Annex A to the present Agreement, shall, if the two Contracting Parties concerned so request, be excluded from the calculation of bilateral surpluses or deficits. Unless the Organisation decides otherwise, such amounts may no longer be excluded when they have been used in the monetary area of any of the Contracting Parties. If these amounts are excluded because they have been used outside the monetary areas of the Contracting Parties, any moneys paid in respect of interest on or amortisation of such amounts shall be excluded in subsequent operations, at the request of the Contracting Parties concerned made at the time of the exclusion of such amounts.

(*f*) Each Contracting Party shall use its best endeavours to ensure that abnormal balances in the currencies of other Contracting Parties are not held by banks other than central banks or otherwise placed so that they are excluded from the calculation of bilateral surpluses or deficits.

(*g*) For the purposes of the present Agreement, the central bank of a Contracting Party shall mean the central bank or other monetary authority designated by that Contracting Party.

Article 5

NET SURPLUSES AND DEFICITS

The net surplus or deficit of a Contracting Party shall be an amount equal to the difference between the sum of its bilateral surpluses and the sum of its bilateral deficits for an accounting period.

Article 6

ACCOUNTING SURPLUSES AND DEFICITS

The accounting surplus or deficit of a Contracting Party shall be the net surplus or deficit of that Contracting Party for an accounting period, adjusted:

(i) by any amount in respect of an initial balance allotted to that Contracting Party and used or reconstituted in accordance with Article 10 in the operations relating to that accounting period; and

(ii) by any amount in respect of existing resources held by or in relation to that Contracting Party and used in accordance with Article 9 in the operations relating to that accounting period. The adjustment shall be made as if the amount used were a bilateral surplus of the Contracting Party which held the said existing resources and a bilateral deficit of the Contracting Party in relation to which they were held.

Article 7

CUMULATIVE ACCOUNTING SURPLUSES AND DEFICITS

The cumulative accounting surplus or deficit of a Contracting Party with the Union shall be an amount equal to the difference between the sum of its accounting surpluses and the sum of its accounting deficits.

Article 8

FINANCING BETWEEN OPERATIONS

(*a*) Each Contracting Party shall make amounts of its currency requested by any other Contracting Party available to that other Contracting Party, without requiring a settlement in gold or in the currency of any third country, to the extent necessary to enable payments in respect of transactions referred to in Article 2 to be made during the periods between the operations.

(*b*) Under the provisions of the present Article no Contracting Party may be required to place at the disposal of other Contracting arties amounts of its currency exceeding in aggregate the amount by which its cumulative accounting surplus falls short of its quota s defined in paragraph (*a*) of Article 11.

PART II

Settlement of Surpluses and Deficits

Article 9

EXISTING RESOURCES

(*a*) Existing resources corresponding to outstanding debts, within the meaning of paragraph 1 of Annex A to the present Agreement, eld by a Contracting Party, shall be used at its request for the settlement of its net deficit for an accounting period, except to the extent that it had a cumulative accounting surplus at the conclusion of the operations relating to the preceding accounting period. However, to the extent that its net deficit may be settled in accordance with paragraph (*e*) of Article 10, a Contracting Party to which an initial debit balance is allotted may only use these resources with the approval of the Government of the United States of America given after consultation with the Managing Board referred to in Article 20.

(*b*) When outstanding debts are amortised or repaid in accordance with Annex A to the present Agreement, the resources corresponding to those debts may only be used in accordance with paragraph (*a*) of the present Article with the agreement of the Contracting Party owing the debt.

Article 10

INITIAL BALANCES

(*a*) Initial credit and debit balances for the period from 1st July, 1950, to 30th June, 1951, for the amounts shown in Tables I and II respectively, will be allotted by the Government of the United States of America in respect of the Contracting Parties shown in those Tables.

TABLE I

INITIAL CREDIT BALANCES 1950–51

Contracting Party	*Amounts in millions of units of account*
(*a*) As a Grant	
Austria	80
Greece	115
Iceland	4
Norway	50
Netherlands	30
(*b*) As a Loan	
Norway	10
Turkey	25

TABLE II

INITIAL DEBIT BALANCES 1950–51

Contracting Party	*Amounts in millions of units of account*
Belgium–Luxembourg Economic Union.	One half of the aid allotted to the B.L.E.U. by the Government of the United States of America under the European Recovery Programme.
Sweden	The aid allotted to Sweden by the Government of the United States of America under the European Recovery Programme.
United Kingdom	150

(*b*) Initial credit and debit balances may, in connexion with the European Recovery Programme, be allotted for the period from 1st July, 1951, to 30th June, 1952, by the Government of the United States of America after consultation with the Organisation. Any balances so allotted shall be communicated to the Organisation by 30th June, 1951.

(*c*) In the operations relating to accounting periods prior to 1st July, 1951, initial credit and debit balances allotted by virtue of paragraph (*a*) of the present Article shall be used for the settlement of net deficits and surpluses, respectively, of the Contracting Parties to which they are allotted; provided that an initial debit balance shall be used to settle the net surplus of a Contracting Party only to the extent that an equivalent amount of conditional aid is already firmly allotted to it.

(*d*) Where a Contracting Party receives an initial credit balance partly as a grant and partly as a loan, the portion of the initial credit balance which is allotted as a grant shall be used before that part which is allotted as a loan.

(*e*) The net surplus in any accounting period prior to 1st July, 1951, of a Contracting Party to which an initial credit balance is allotted, and the net deficit in any such accounting period of a Contracting Party to which an initial debit balance is allotted, shall be settled up to the amount that the initial balance stands reduced at the beginning of that accounting period, by the reconstitution of the initial balance.

(*f*) A net surplus or deficit of a Contracting Party shall be settled in accordance with paragraphs (*c*), (*d*) and (*e*) of the present Article only to the extent to which it exceeds any cumulative accounting deficit or surplus, respectively; of the Contracting Party concerned as at the conclusion of the operations relating to the preceding accounting period and, in the case of a net deficit, only to the extent that it has not been settled under Article 9.

(*g*)—(i) Subject to the provisions of sub-paragraphs (ii) and (iii) of the present paragraph, any amount in respect of an initial credit balance allotted as a grant, or of a debit balance, not used in the operations relating to accounting periods prior to 1st July, 1951, shall be deemed to be a net surplus or deficit, as the case may be, of the Contracting Party to which the initial balance was allotted, arising in the accounting period beginning on 1st July, 1951.

(ii) The preceding sub-paragraph shall apply as regards any amount in respect of an initial debit balance only to the extent that an equivalent amount of conditional aid is already firmly allotted to the Contracting Party concerned.

(iii) Any amount in respect of the initial debit balance allotted to the United Kingdom and not used in the operations referred to in sub-paragraph (i) of the present paragraph shall be cancelled.

(*h*) Initial credit balances allotted as a loan:

(i) shall bear interest payable to the Union at the same rate as that applied to credits granted to Contracting Parties by the Union by virtue of Articles 11 and 13, from the day on which they are used, and for as long as they are used, to settle net deficits;

(ii) shall, in so far as they are not used to settle net deficits, remain available for use by the Contracting Party in whose favour they were allotted, until the liquidation of the Union when they shall be cancelled; and

(iii) shall, in so far as they have been used to settle net deficits, be repaid at the time of liquidation of the Union, in the same manner as credits granted by the Union, in accordance with the provisions of paragraphs 21 and 22 of Annex B to the present Agreement.

Article 11

CREDITS AND GOLD PAYMENTS

(*a*) The accounting surplus or deficit of any Contracting Party shall be settled by the granting of credit and the payment of gold as provided in paragraph (*b*) of the present Article, except to the extent that the cumulative accounting surplus or deficit of that Contracting Party exceeds the quota allotted to it in Table III.

TABLE III

QUOTAS

Contracting Party	*Quota (In millions of units of account)*	*Individual quotas as Percentages of Total Quotas*
Germany	320	8. 1
Austria	70	1. 8
B. L. E. U.	360	9. 1
Denmark	195	4. 9
France	520	13. 2
Greece	45	1. 1
Iceland	15	0. 4
Italy	205	5. 2
Norway	200	5. 0
Netherlands	330	8. 3
Portugal	70	1. 8
United Kingdom	1, 060	26. 9
Sweden	260	6. 6
Switzerland	250	6. 3
Turkey	50	1. 3
TOTAL	3, 950	100. 0

NOTES. (1) Contracting Parties to which initial credit balances of an amount greater than their quotas are allotted may not settle, in accordance with the provisions of the present Article, their accounting deficits for an accounting period prior to the date referred to in paragraph (*g*) of Article 10. Until that date, the quotas of these Contracting Parties shall be deemed to be zero for the purposes of Article 13 and of paragraphs 4 and 17 of Annex B to the present Agreement.

(2) The accounting surplus of the Belgium-Luxembourg Economic Union shall be settled in accordance with the present Article only to the extent that its cumulative accounting surplus does not exceed the amount of its quota reduced for the period 1st July, 1950, to 30th June, 1951, by the amount of the initial debit balance allotted to it for the period 1st July, 1950, to 30th June, 1951, by the Government of the United States of America under the European Recovery Programme and further reduced for the period 1st July, 1951, to 30th June, 1952, by the amount of any initial debit balance which may be allotted to it for the period 1st July, 1951, to 30th June, 1952. The provisions of paragraph (*b*) of Article 13 shall apply if the Belgium-Luxembourg Economic Union should have a cumulative accounting surplus in excess of the amount of its quota so reduced.

(*b*) The amounts of credit to be granted and of gold to be paid for the settlement of an accounting surplus or deficit for an accounting period shall be those necessary to bring the net amount of credit granted and the net amount of gold paid at the conclusion of the operations relating to that accounting period to the amounts determined in accordance with Table IV for the settlement of the cumulative accounting surplus or deficit of the Contracting Party concerned, after taking account of the credit, if any, previously granted and of the gold, if any, previously paid.

TABLE IV

CREDITS AND GOLD PAYMENTS

Amount of Cumulative Accounting Surplus or Deficit expressed as a Percentage of the Quota	*Settlement of the Cumulative Accounting Deficit*		*Settlement of the Cumulative Accounting Surplus*	
	Proportion to be settled by Credit granted by the Union	Proportion to be settled by Gold Payments to the Union	Proportion to be settled by Credit granted to the Union	Proportion to be settled by Gold Payments by the Union
First. 20%	100%	. . . . . .	100%	. . . . . .
Second. 20%	80%	20%	50%	50%
Third 20%	60%	40%	50%	50%
Fourth. 20%	40%	60%	50%	50%
Last. 20%	20%	80%	50%	50%

(*c*) The amount of credit calculated in accordance with paragraph (*b*) of the present Article shall be granted, as the case may be, by the Contracting Party concerned to the Union or by the Union to the Contracting Party concerned and the amount of gold calculated in accordance with paragraph (*b*) shall be paid, as the case may be, by the Union to the Contracting Party concerned or by the Contracting Party concerned to the Union.

(*d*) Except to the extent to which it had a cumulative accounting surplus at the conclusion of the operations relating to the preceding accounting period, a Contracting Party may, for the purpose of settling an accounting deficit, pay a greater amount of gold than that provided for in paragraph (*b*) of the present Article. To the extent to which the amounts of gold that have been paid are in excess of those calculated in accordance with paragraph (*b*) of the present Article, they shall be deemed to be credits for the purposes of the calculations made under that paragraph.

Article 12

BILATERAL CREDIT AGREEMENTS

(*a*) When two Contracting Parties notify the Organisation of an agreement by virtue of which one of them agrees to grant to the other credit not exceeding a determined amount, or both of them agree to grant to each other credit not exceeding a determined amount, that credit shall be used in accordance with the provisions of the bilateral agreement for the settlement of the bilateral deficit of the Contracting Party in favour of which the credit is granted in relation to the Contracting Party granting the credit, for the accounting period immediately preceding the use of the credit.

(*b*) The total amount of credit used under the present Article may not be in excess of:

(i) the cumulative bilateral surplus of the Contracting Party granting the credit in relation to the Contracting Party to which it is granted, that is to say, the total amount of the bilateral surpluses, reduced by the total amount of bilateral deficits, of the former Contracting Party in relation to the latter Contracting Party;

(ii) the fraction of the cumulative accounting surplus of the former Contracting Party which, under Article 11, may be settled by the granting of credit.

(*c*) Where amounts of credit are used between two Contracting Parties by virtue of the present Article, they shall be deemed to be credit granted to or by the Union for the purposes of paragraph (*b*) of Article 11, and the amount of credit to be granted by virtue of Article 11, as regards those Contracting Parties, shall be such that the net amount of credit granted or received by each of them, whether bilaterally or to or from the Union, shall be equal to the amount of credit determined in accordance with Article 11.

Article 13

SETTLEMENT IN EXCESS OF QUOTAS

(*a*) That part of the accounting deficit of a Contracting Party which is equal to the amount, if any, by which its cumulative accounting deficit exceeds its quota shall, unless the Organisation decides otherwise and subject to the provisions of paragraph 7 of Annex B to the present Agreement, be settled wholly by a payment of gold.

(*b*) That part of the accounting surplus of a Contracting Party which is equal to the amount, if any, by which its cumulative accounting surplus exceeds its quota shall, subject to the provisions of paragraph 7 of Annex B to the present Agreement, be settled in accordance with the decisions of the Organisation.

Article 14

GOLD PAYMENTS

(*a*) The Union may discharge its obligation to make a payment of gold to a Contracting Party by virtue of Article 11 or 13 by means of a payment:

(i) in United States dollars;
(ii) in the currency of a country which is not a Contracting Party, if that currency is acceptable to the Contracting Party concerned; or
(iii) in the currency of that Contracting Party.

(*b*) Any Contracting Party which has to make a payment of gold to the Union by virtue of Article 11 or 13 may discharge its obligation by means of a payment:

(i) in United States dollars; or
(ii) subject to the agreement of the Managing Board referred to in Article 20, in any other currency to the extent that the Union is

able to use it for payments to be made in accordance with the provisions of paragraph (*a*) of the present Article.

Article 15

SPECIAL ASSISTANCE

If a Contracting Party is not in a position to make, in accordance with Article 11 or 13, payments in gold necessary for the settlement of its accounting deficit, the Organisation may, at the request of that Contracting Party, recommend to the Government of the United States of America to place at the disposal of that Contracting Party—subject, if desirable, to conditions—amounts of United States dollars necessary to enable it to comply with its obligations under the present Agreement. Any request made by a Contracting Party in accordance with the provisions of the present Article does not suspend its obligations under Article 11 or 13.

Article 16

SETTLEMENT OF BILATERAL SURPLUSES AND DEFICITS

(*a*) When a net surplus or deficit of a Contracting Party for an accounting period is settled in accordance with the provisions of this Part of the present Agreement, the bilateral surpluses or deficits of the other Contracting Parties in relation to the first Contracting Party for the accounting period concerned shall be settled in consequence, subject to the provisions of paragraph (*b*) of the present Article.

(*b*) When the net surplus of a Contracting Party for an accounting period is not wholly settled by virtue of the provisions of this Part of the present Agreement, each bilateral deficit of other Contracting Parties in relation to the first Contracting Party for the accounting period concerned shall be partially settled, and in the same proportion, so that the amounts of these bilateral deficits which have not been settled shall be, in their aggregate, equal to the amount which has not been settled of the net surplus of the first Contracting Party. In consequence, the net surpluses or deficits of the Contracting Parties which have a bilateral deficit in relation to the first Contracting Party shall be adjusted as if that bilateral deficit were equal to the amount of that deficit settled by virtue of the provisions of this Part of the present Agreement.

Article 17

VALUE DATE

The operations shall be carried out in respect of each accounting period on the date fixed in accordance with the decisions of the Organisation.

PART III

ADMINISTRATION AND FINANCE

Article 18

ADMINISTRATIVE ORGANS

The Union shall be operated under the authority of the Council by a Managing Board and by the Bank for International Settlements acting in accordance with an Agreement between the Organisation and the Bank as agent for the Organisation (hereinafter referred to as the "Agent").

Article 19

THE COUNCIL

(*a*) Subject to the provisions of Article 20, the Council shall have power to take such decisions as may be necessary for the execution of the present Agreement. Every such decision shall be binding on all Contracting Parties and, subject to paragraph (*e*) of Article 34 and paragraph (*c*) of Article 36, shall cease to be binding on a Contracting Party with regard to which the present Agreement terminates. However, the decisions referred to in paragraph (*c*) of the present Article shall be binding on all Members of the Organisation which are or have at any time been Contracting Parties.

(*b*) Subject to the provisions of paragraphs (*c*) and (*d*) of the present Article and of Article 35, decisions of the Council under the present Agreement shall be taken by mutual agreement of all Contracting Parties, except those which are absent or abstain, However:

(i) the agreement of a Contracting Party shall not be required for the adoption of any decision concerning the suspension with regard to it of the application of the present Agreement in accordance with Article 33, or for the adoption of any decision taken in the course of any period during which the application of the present Agreement is suspended with regard to it; and

(ii) a country with regard to which the present Agreement has terminated shall take part in decisions which concern it taken by virtue of paragraph 6 of Annex B to the present Agreement.

(*c*) Decisions of the Council concerning the liquidation of the Union shall require the mutual agreement of all Members of the Organisation which are or have at any time been Contracting Parties to the present Agreement, except those Members which are absent or abstain.

(*d*) Any decision of the Council taken under paragraph (*b*) of Article 36 shall require the mutual agreement of all Members of the Organisation, except those which are absent or abstain.

Article 20

THE MANAGING BOARD

(*a*) The Managing Board shall consist of not more than seven members who shall be appointed by the Council from persons nominated by the Contracting Parties. Any member appointed upon the nomination of a Contracting Party in respect of which the present Agreement terminates under Article 34 or 35 shall thereupon cease to be a member of the Board. Unless the Organisation decides otherwise, any member appointed upon the nomination of a Contracting Party in respect of which the application of the present Agreement is suspended by virtue of Article 33 shall, for the period of suspension, not attend the meetings of the Managing Board. Unless the Council decides otherwise, the term of office of members of the Board shall be one year: they may be reappointed.

(*b*) Each member of the Managing Board shall designate an alternate with the approval of the Council. The alternate shall not be changed, save with the approval of the Council. An alternate may attend the meetings of the Managing Board and shall exercise the functions of a member if the latter is unable to attend.

(*c*) The Council shall designate each year, from among the members of the Managing Board, a Chairman and two Vice-Chairmen.

(*d*) A representative appointed by the Government of the United States of America may attend the meetings of the Managing Board with the right to participate in discussion but not in decisions. The representative may appoint an alternate, who may attend the meetings of the Managing Board and shall exercise the functions of the representative if the latter is unable to attend.

(*e*) The Chairman of the Intra-European Payments Committee of the Organisation may also attend the meetings of the Managing Board with the right to participate in discussion but not in decisions. The Managing Board may invite other persons to attend its meetings.

(*f*) The Managing Board shall be responsible for supervising the execution of the present Agreement and to this end shall take decisions concerning the execution of the operations and the management of the fund referred to in Article 23. It shall exercise such other powers as may be delegated to it by the Council. These functions shall be exercised in accordance with the decisions of the Council. The Managing Board shall make periodic reports to the Council on the execution of its mandate.

(*g*) Unless the Council provides otherwise, decisions of the Managing Board shall be taken by a majority including not less than four of its members. The decisions of the Managing Board may not be modified by the Council unless they are contrary to the present Agreement or to decisions taken previously by the Council.

(*h*) The decisions of the Managing Board shall be binding on all Contracting Parties unless and until the Council takes a decision by virtue of paragraph (*g*) of the present Article. Subject to paragraph (*e*) of Article 34 and paragraph (*c*) of Article 36, the decisions of the

Managing Board shall cease to be binding on a Contracting Party with regard to which the present Agreement terminates.

(*i*) The Managing Board shall adopt its own rules of procedure.

Article 21

THE AGENT

(*a*) The Agent shall be entrusted with the execution of the operations and the management of the fund referred to in Article 23, in accordance with the decisions of the Council and of the Managing Board.

(*b*) The Agent shall submit periodic reports to the Organisation.

Article 22

INFORMATION TO BE COMMUNICATED TO THE AGENT

(*a*) Each Contracting Party shall communicate to the Agent:

(i) a monthly statement giving all information required for the execution of the operations, including the parity between its own currency and the unit of account, and a single rate of exchange agreed with each other Contracting Party based on the effective rate for current transactions, at which the Contracting Party making the statement is prepared for the operations to take place;

(ii) such information relating to the bilateral agreements referred to in Article 12 and Annex A to the present Agreement as may be required for its execution; and

(iii) the amounts of existing resources available for use in accordance with Article 9.

(*b*) If a Contracting Party, in placing information at the disposal of the Agent for the purposes of the present Agreement, intimates that it desires the information to be treated as confidential, the Agent shall have due regard to the intimation in making use of the information.

Article 23

THE FUND

(*a*) For the purposes of the present Agreement, a fund is hereby created and entrusted to the Organisation.

(*b*) The following assets shall be paid or credited to the fund:

(i) an amount of not less than 350 million United States dollars obligated by the Government of the United States of America. These dollars will be made available automatically by the Government of the United States of America to the Union as required by the Agent in order to enable the Union to carry out the operations prescribed in the present Agreement;

(ii) gold and foreign currency paid by any Contracting Party;
(iii) claims in respect of credits or loans granted to the Contracting Parties; and
(iv) the proceeds of, and income from, these assets.

(*c*) The fund shall be used for:

(i) effecting payments of gold or currency in favour of the Contracting Parties;
(ii) meeting obligations in respect of credits granted by the Contracting Parties; and
(iii) meeting expenses incurred in connexion with payments and transfers of gold or currency made under the present Agreement and with the investment of assets, or other similar expenditure.

(*d*) The Organisation shall decide the rates of interest with regard to credit granted by virtue of Articles 11 and 13. The interest shall be settled half-yearly. To this end, the net surplus or deficit of the Contracting Party concerned shall be calculated taking into account the amount of interest due.

Article 24

PRIVILEGES AND IMMUNITIES

(*a*) The provisions of Parts II and III of Supplementary Protocol No. 1 to the Convention for European Economic Co-operation of 16th April, 1948,[1] shall apply to the Union and to the assets of the fund, including income, without prejudice to the provisions of paragraphs (*b*) and (*c*) of the present Article.

(*b*) The assets of the fund, including income, wherever located and by whomsoever held, and the operations and transactions authorised under the present Agreement shall be immune from all taxation and from all customs duties.

(*c*) The provisions of Article 5 of the Protocol referred to in paragraph (*a*) of the present Article shall apply to gold included in the assets of the fund and to all transactions concerning such gold.

Article 25

ACCOUNTS

(*a*) The accounts of the Union shall be kept by the Agent, who shall draw up and submit to the Managing Board each year a balance sheet and an income and expenditure account.

(*b*) The accounts and the balance sheet shall be audited by independent auditors appointed by the Council, to which they shall report.

(*c*) The balance sheet and the income and expenditure account shall be submitted by the Managing Board to the Council for approval.

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[1] British Treaty Series No. 59 (1949), Cmd. 7796.

Article 26

UNIT OF ACCOUNT

(*a*) Accounts shall be kept, calculations relating to operations shall be made and credits granted by virtue of Articles 11 and 13 shall be expressed in terms of a unit of account of 0.88867088 grammes of fine gold.

(*b*) The parity between the unit of account and the currency of each Contracting Party shall be determined by that Contracting Party.

(*c*) No Contracting Party may oppose a decision of the Organisation, taken by virtue of paragraph (*a*) of Article 30, modifying the value of the unit of account by a proportion no greater than that by which the parity of its own currency with the unit of account, as determined on 1st July, 1950, has been modified in the same direction since that date.

Article 27

MODIFICATIONS OF PARITY

When the parity of the currency of a Contracting Party within the meaning of paragraph (*b*) of Article 26 is modified during an accounting period, the bilateral surplus or deficit of that Contracting Party in relation to each other Contracting Party shall be calculated in two parts, that is to say for the period prior to and for the period after the modification of the parity on the basis of the parities in force during those periods respectively. For the purposes of paragraph (*b*) of Article 11, the amounts of credit used by virtue of Article 12 shall be calculated in units of account on the basis of the parity in force during the accounting period in respect of which the credit was used.

PART IV

FINAL PROVISIONS

Article 28

ANNEXES

Annexes A and B to the present Agreement shall form an integral part thereof.

Article 29

REVIEW

The Organisation shall keep the operation of the present Agreement under constant review. A comprehensive review shall be made as of 30th June, each year.

Article 30

AMENDMENTS

(*a*) Article 11 and paragraph (*a*) of Article 26 may be amended by decision of the Organisation.

(*b*) Article 10, with the exception of paragraphs (*a*) and (*b*), may be amended by decision of the Organisation taken in agreement with the Government of the United States of America.

Article 31

RATIFICATION AND COMING INTO FORCE

(*a*) The present Agreement shall be ratified by the Signatories, which, for this purpose, shall submit it without delay to their appropriate constitutional authorities.

(*b*) Instruments of ratification shall be deposited with the Secretary-General of the Organisation who will notify each deposit to all Signatories.

(*c*) The present Agreement shall come into force upon the deposit of instruments of ratification by all the Signatories.

(*d*) If the appropriate constitutional authorities of a Signatory decline to authorise the ratification of the present Agreement, the Signatory concerned shall notify the Organisation which shall decide what measures, if any, shall be taken to enable the Agreement to come into force.

Article 32

ACCESSION

(*a*) Any Member of the Organisation which has not signed the present Agreement may notify the Organisation of its desire to accede thereto.

(*b*) If the Organisation approves the accession, it shall determine the conditions and the date on which accession may take effect.

(*c*) Subject to the provisions of paragraphs (*a*) and (*b*) of the present Article, accession shall be effected by the deposit of the Member concerned of an instrument of accession with the Secretary-General of the Organisation who will notify such deposit to all Contracting Parties.

Article 33

SUSPENSION

(*a*) The Organisation may, at the request of a Contracting Party, decide to suspend the application of the present Agreement with regard to that Contracting Party on conditions and for a period which shall be determined by the Organisation.

(*b*) Provided that the case has been considered by the Managing Board or any other body previously established or designated by the Organisation for this purpose, the Organisation may also decide to suspend the application of the present Agreement with regard to a

Contracting Party, on conditions and for a period which shall be determined by the Organisation,

(i) if that Contracting Party fails to fulfil any of its obligations under the present Agreement or under any of the decisions of the Organisation referred to in Article 2; or

(ii) for any other reason which shall have been determined by a previous decision of the Organisation.

Article 34

WITHDRAWAL

(*a*) Unless the Organisation decides otherwise, the present Agreement shall terminate with regard to any Contracting Party which fails to make any payment of gold due under Articles 11 or 13, as from the end of the accounting period in which the default occurs; provided that the other Contracting Parties shall be relieved of their obligations towards that Contracting Party under Article 8 immediately the default is established.

(*b*) The present Agreement shall terminate with regard to any Contracting Party which withdraws from the Organisation, at the end of the accounting period in which the withdrawal becomes effective, unless the Organisation decides on another date.

(*c*) The Organisation may decide to terminate the present Agreement with regard to a Contracting Party in the case of *force majeure* or exceptional circumstances.

(*d*) By notifying the Organisation, any Contracting Party may terminate the present Agreement with regard to it:

(i) if its cumulative accounting surplus or deficit reaches the amount of its quota, in which case the Agreement shall terminate at the end of the accounting period in which the cumulative accounting surplus or deficit of the Contracting Party concerned reaches its quota or at the end of the accounting period in which the notification is given, whichever is the later;

(ii) if a payment in gold which is due in its favour by virtue of Articles 11 or 13 has not been completely carried out, in which case the Agreement shall terminate at the end of the accounting period in which the notification is given; provided that the Contracting Party concerned shall be relieved of its obligations towards the other Contracting Parties under Article 8 immediately the notification is given; or

(iii) in such other cases on such conditions as the Organisation may decide.

(*e*) If the provisions of the present Article are applied:

(i) the operations relating to the accounting period at the end of which the present Agreement terminates in respect of the Contracting Party concerned, shall nevertheless be carried out; and

(ii) the rights and obligations of the Contracting Party concerned shall be determined in accordance with the provisions of Section I of Annex B to the present Agreement which shall remain in force until the provisions of that Section are carried out.

Article 35

EXTENSION OF THE OPERATION OF ARTICLE 11

(*a*) Not later than 31st March, 1952, the Organisation shall carry out a comprehensive review of the operation of the present Agreement in order to decide, in consultation with the Government of the United States of America, on the conditions on which Article 11 may remain in force as from 1st July, 1952.

(*b*) The present Agreement shall terminate on 30th June, 1952, with regard to any Contracting Party which does not take part in the decision taken by the Organisation by virtue of paragraph (*a*) of the present Article, and paragraph (*e*) of Article 34 shall then apply to that Contracting Party.

(*c*) Article 11 shall, subject to the provisions of paragraph (*a*) of Article 36, remain in force between the other Contracting Parties on conditions which they shall determine.

Article 36

TERMINATION

(*a*) The present Agreement may be terminated by decision of the Organisation at any time.

(*b*) Unless the Organisation decides otherwise, the present Agreement shall terminate at any time after 30th June, 1952, if the quotas of the Contracting Parties should amount in aggregate to less than 50 per cent. of the total amount of quotas initially fixed by Article 11.

(*c*) Upon the termination of the present Agreement:

(i) the operations relating to the accounting period at the end of which the present Agreement terminates, shall nevertheless be carried out; and

(ii) the Union shall be liquidated in accordance with the provisions of Section II of Annex B to the present Agreement which shall remain in force until the provisions of that Section are carried out.

ANNEX A

OUTSTANDING DEBTS

1.—(*a*) For the purposes of the present Agreement outstanding debts shall consist of:

(i) the balances, on 30th June, 1950, of accounts referred to in paragraph (*a*) of Article 5 of the Agreement for Intra-European Payments and Compensations for 1949–1950, signed on 7th

September, 1949,[1] adjusted to take into account operations relating to June 1950, carried out under that Agreement; and

(ii) such other debts outstanding on 30th June, 1950, between two Contracting Parties as they may notify to the Agent, excluding that part of any consolidated debt in respect of which there is no liability for the debtor to make anticipated repayment.

(*b*) The Council may decide to substitute other dates for those referred to in sub-paragraph (*a*), (i) and (ii), of this paragraph in the case of any Contracting Party with regard to which the present Agreement does not apply with effect from 1st July, 1950.

2. If an agreement is concluded between the two Contracting Parties concerned, for the amortisation or repayment of any outstanding debt within the meaning of paragraph 1 of the present Annex, the repayment instalments in respect thereof shall be included in the calculation of the bilateral surpluses or deficits of those Contracting Parties. Two Contracting Parties may agree that any debt outstanding between them shall not be subject to amortisation.

3. If the Organisation decides that an agreement concluded for the amortisation or repayment of any outstanding debt may prejudice the proper operation of the Union, the two Contracting Parties concerned shall amend that agreement in accordance with the decision of the Organisation.

4. If the two Contracting Parties concerned disagree regarding the amortisation of an outstanding debt or on the conditions of the amortisation, the conditions of amortisation may be determined by a decision of the Organisation at the request of either of those Contracting Parties.

5. If the Organisation is not in a position to take a decision under paragraph 4 of the present Annex, the debt shall be amortised on the following conditions:

(i) repayment shall be made in two years and, unless the two Contracting Parties concerned agree otherwise, by equal monthly instalments; and

(ii) interest shall be paid at 1 per cent. per annum, unless a higher rate is provided for the same period by a payments agreement in force on 30th June, 1950, as between the said Contracting Parties, in which case that rate shall apply. If the payments agreement provides for a higher rate for a longer period, the rate of interest shall be determined by a decision of the Organisation, taking account of that rate.

6. The conditions of amortisation determined in accordance with the provisions of paragraphs 4 or 5 of the present Annex may be modified by agreement of the two Contracting Parties concerned, subject to the provisions of paragraph 3 of the present Annex.

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[1] British Misc. No. 13 (1949), Cmd. 7812.

ANNEX B

Section I

RIGHTS AND OBLIGATIONS OF THE CONTRACTING PARTIES IN CASE OF WITHDRAWAL

1. When the present Agreement terminates with regard to any Contracting Party under Articles 34 or 35 thereof, the rights and obligations of that Contracting Party shall be determined in accordance with the following provisions.

2.—(*a*) Subject to the provisions of paragraph (*g*) of Article 10 of the present Agreement and of sub-paragraphs (*b*) and (*c*) of the present paragraph, any amount in respect of an initial credit or debit balance allotted to the Contracting Party concerned and not used in the operations relating to accounting periods prior to the date of termination of the present Agreement with regard to that Contracting Party, shall be treated as if it were an accounting surplus or deficit, as the case may be, of that Contracting Party arising in the accounting period ending on that date.

(*b*) The preceding sub-paragraph shall apply as regards any amount in respect of an initial debit balance only to the extent that an equivalent amount of conditional aid is already firmly allotted to the Contracting Party concerned.

(*c*) If the Contracting Party concerned is the United Kingdom, any amount in respect of its initial debit balance not used in the operations referred to in sub-paragraph (*a*) of the present paragraph shall be cancelled.

3. Unless the Organisation decides otherwise, the credit granted to or received from the Union by the Contracting Party concerned in accordance with the provisions of Articles 11 and 13 of the present Agreement, and the amount of credit used or granted by the said Contracting Party in accordance with Article 12 of the present Agreement, shall be cancelled and shall be replaced by bilateral credits calculated in accordance with the provisions of paragraph 4 of the present Annex.

4.—(*a*) The Contracting Party concerned shall grant to each of the other Contracting Parties, or receive from each of them, as the case may be, a credit equivalent to that fraction of the net amount of credit received from or granted to the Union by the first Contracting Party, which is equal to the fraction which the quota of that other Contracting Party represents of the sum of the quotas of all the Contracting Parties.

(*b*) The Contracting Party concerned shall receive from each of the Contracting Parties which has granted a net amount of credit to the Union and shall grant to each of the Contracting Parties which has received a net amount of credit from the Union, a credit equivalent to that fraction of the credits granted or received by each of those Contracting Parties, which is equal to the fraction which the quota of the first Contracting Party represents of the sum of the quotas of all the Contracting Parties.

(*c*) The credits granted or received under the provisions of sub-paragraph (*a*) of the present paragraph shall, where appropriate, be offset against the credits granted or received under the provisions of sub-paragraph (*b*) of the present paragraph.

5.—(*a*) The amounts of credit used in accordance with Article 12 of the present Agreement shall be considered, for the purposes of paragraph 4 of the present Annex, as credit granted to the Union by the Contracting Party which grants the credit and as credit received from the Union by the Contracting Party in whose favour the credit is granted.

(*b*) (i) For the purposes of the calculations under paragraph 4 of the present Annex, if the withdrawing Contracting Party has received a net amount of credit from the Union, the total of the credits granted to the Union shall be adjusted proportionately so as to be equal to the total of the credits granted by the Union.

(ii) For the purposes of the calculations under paragraph 4 of the present Annex, if the withdrawing Contracting Party has granted a net amount of credit to the Union, the total of the credits granted by the Union shall be adjusted proportionately so as to be equal to the total of the credits granted to the Union.

6. The bilateral credits arising under paragraph 4 of the present Annex shall be expressed and repaid in the currency of the Contracting Party which grants the credit, unless the Contracting Party which grants it agrees otherwise with the Contracting Party which receives it. The conditions of such credits shall be determined by agreement between the two Contracting Parties or, in the absence of such agreement, by decision of the Organisation. If the Organisation is not able to take a decision, the credits concerned shall bear interest at the rate of two and three-quarters per cent. per annum; they shall be repaid in three years and shall, unless the two Contracting Parties agree otherwise, be repaid by equal monthly instalments.

7.—(*a*) Each of the other Contracting Parties shall grant to the Union or receive from the Union, as the case may be, a credit equal to that which it receives from or grants to the withdrawing Contracting Party by virtue of paragraph 4 of the present Annex.

(*b*) These credits shall bear interest at a rate to be determined by the Organisation. They shall not be taken into consideration for the calculation provided for in paragraph (*b*) of Article 11 of the present Agreement; nevertheless,

(i) they may be used for the settlement of the accounting surplus or deficit, as the case may be, of each Contracting Party to the extent to which its cumulative accounting surplus or deficit exceeds its quota; and

(ii) they shall be treated as credits granted or received by virtue of Article 11 of the present Agreement, for the purposes of the present Annex.

Section II

LIQUIDATION OF THE UNION

8. Upon the termination of the present Agreement under Article 36 thereof, the Union shall be liquidated in accordance with the following provisions.

9.—(*a*) Subject to the provisions of paragraph (*g*) of Article 10 of the present Agreement and of sub-paragraphs (*b*) and (*c*) of the present paragraph, any amount in respect of an initial credit or debit balance allotted to a Contracting Party and not used under the present Agreement, shall be treated as if it were an accounting surplus or deficit, as the case may be, of that Contracting Party arising in the accounting period ending on the date of termination.

(*b*) The preceding sub-paragraph shall apply as regards any amount in respect of an initial debit balance only to the extent that an equivalent amount of conditional aid is already firmly allotted to the Contracting Party concerned.

(*c*) Any amount in respect of the initial debit balance allotted to the United Kingdom not used under the present Agreement shall be cancelled.

10. Amounts of credit used in accordance with Article 12 of the present Agreement shall, upon the termination of the present Agreement, be treated as credits granted or received, as the case may be, by virtue of Article 11 thereof, and the bilateral credits shall be cancelled.

11. The Organisation may determine limits within and conditions under which any Contracting Party may be permitted to exclude from the liquidation reasonable working balances in the currencies of other Contracting Parties.

12. The convertible assets of the fund shall be used to reimburse the Contracting Parties which have granted credits to the Union by virtue of Articles 11 and 13 of the present Agreement, in proportion to the net amounts of these credits. However, in so far as the amount of convertible assets does not exceed the amount referred to in paragraph (*b*), (i), of Article 23 of the present Agreement, they shall only be used under the present paragraph if the Government of the United States of America has not objected to the liquidation.

13. The convertible assets of the fund referred to in paragraph 12 of the present Annex shall be the amounts of gold, United States dollars and convertible currencies of countries other than Contracting Parties, which form part of the fund on the termination of the present Agreement.

14. The residue of the credits granted by the Contracting Parties and not repaid by virtue of paragraph 12 of the present Annex shall be liquidated in accordance with the provisions of paragraph 15, or paragraphs 16 to 18, of the present Annex, as the case may be.

15. Should the Organisation decide that the liquidation provided for in paragraph 14 of the present Annex shall be carried out by the

Union, the Contracting Parties which have received credits from the Union by virtue of Articles 11 and 13 of the present Agreement shall repay to the Union, in proportion to the net amounts of their credits and on conditions to be determined by the Organisation, the amounts required to enable the Union to carry out the said liquidation.

16. In the absence of such a decision by the Organisation, the balance outstanding of the credits granted to the Union, referred to in paragraph 14 of the present Annex, and the part of the credits granted by the Union which would otherwise be repayable in accordance with paragraph 15 of this Annex, shall be cancelled and replaced by bilateral credits calculated in accordance with the provisions of paragraph 17 of this Annex.

17.—(*a*) Each Contracting Party shall receive from each of the Contracting Parties which has granted a net amount of credit to the Union, a credit equivalent to that fraction of the outstanding balance of the credit granted by the latter Contracting Party which is equal to the fraction which the quota of the first Contracting Party represents of the sum of the quotas of all the Contracting Parties.

(*b*) Each Contracting Party which has received a net amount of credit from the Union shall receive from each of the Contracting Parties an amount of credit equivalent to that fraction of the part, referred to in paragraph 16 of the present Annex, of the credit granted by the Union and received by the former Contracting Party, which is equal to the fraction which the quota of the latter Contracting Party represents of the sum of the quotas of all the Contracting Parties.

18. The bilateral credits granted in accordance with the provisions of paragraphs 16 and 17 of this Annex shall be expressed and repaid in the currency of the Contracting Party which grants the credit, unless there is agreement to the contrary between the said Contracting Party and the Contracting Party which receives the credit. The terms of these credits shall be fixed by agreement between the two Contracting Parties, or, in the absence of such agreement, by decision of the Organisation. If the Organisation is unable to take such a decision, the credits concerned shall bear interest at two and three-quarters per cent. per annum; they shall be repayable in three years and shall, unless the two Contracting Parties agree otherwise, be repaid by equal monthly instalments.

19. Any assets of the fund not used in accordance with the provisions of paragraphs 12 to 18 of the present Annex shall be distributed, subject to the provisions of paragraph 23, among the Signatories of the present Agreement in the proportions fixed in Table V. Nevertheless, if any Contracting Party fails to fulfil any of its obligations under Articles 11 or 13 of the present Agreement or of paragraphs 4, 15, or 16 to 18 of the present Annex, it shall not participate in the distribution provided for in the present paragraph, unless the Organisation decides otherwise.

TABLE V

Germany	18, 902
Austria	4, 252
B.L.E.U.	4, 883
Denmark	2, 224
France	17, 189
Greece	5, 088
Ireland	1, 146
Iceland	0, 179
Italy	9, 936
Norway	2, 295
Netherlands	6, 592
Portugal	0, 804
United Kingdom	23, 489
Sweden	1, 172
Switzerland	.....
Trieste	0, 342
Turkey	1, 507

20. To the extent to which they are not repaid in accordance with the provisions of paragraphs 14 to 18 of the present Annex, credits granted to the Contracting Parties by virtue of Articles 11 and 13 of the present Agreement shall be offset against claims allotted to them by virtue of paragraph 19 of the present Annex.

21. The settlement of claims allotted by virtue of paragraph 19 of the present Annex, to the extent to which they are not settled in accordance with paragraph 20, shall be carried out by the Contracting Parties whose credits from the Union have not been entirely repaid. To this end, each of those Contracting Parties shall receive from each of the Contracting Parties which by virtue of paragraph 19 have a claim on the Union, a credit equivalent to that fraction of the claim which is equal to the fraction which the outstanding balance of the credit received by the first Contracting Party represents of the sum of the outstanding credits.

22. Unless the two Contracting Parties concerned agree otherwise, any credit arising under paragraph 21 of the present Annex shall be settled as follows:

(i) it shall be expressed in the currency of the Contracting Party which grants the credit;
(ii) it shall be consolidated for a period of fifteen years as from the termination of the present Agreement;
(iii) it shall bear interest at the rate of three per cent. per annum during this period;
(iv) it shall be amortised as from the beginning of the third year following the termination of the present Agreement.

23. The application of the provisions of paragraphs 19 to 22 of the present Annex shall be subject to the agreement of the Government of the United States of America which, in consultation with the Organisation, may decide to earmark the whole or part of the residuary assets of the fund for the benefit of the Contracting Parties, either individually or as a group. However, a Contracting Party need not repay the

credits granted by virtue of Articles 11 and 13 of the present Agreement within a period less than that provided for in paragraph 22 of the present Annex, unless the repayment is to be carried out in the currency of that Contracting Party, for use within its territory or monetary area.

24. Any assets of the fund which are distributed pursuant to paragraphs 19 to 22 or paragraph 23 of the present Annex shall be used to facilitate the maintenance of transferability of European currencies or to promote the liberalisation of trade by the Contracting Parties with one another or with other countries, to promote industrial and agricultural production and to further the maintenance of internal financial stability.

In witness whereof, the undersigned Plenipotentiaries, duly empowered, have appended their signatures to the present Agreement.

Done in Paris this nineteenth day of September, Nineteen Hundred and Fifty, in the English and French languages, both texts being equally authentic, in a single copy which shall remain deposited with the Secretary-General of the Organisation for European Economic Co-operation by whom certified copies shall be communicated to all the Signatories.

. . . .

11. PROTOCOL OF PROVISIONAL APPLICATION OF THE AGREEMENT, SEPTEMBER 19, 1950 [1]

The Signatories of the Agreement for the Establishment of a European Payments Union (hereinafter referred to as the "Agreement") signed this day;

Considering the Resolution of the Council of the Organisation for European Economic Co-operation of 29th June, 1950, with regard to the Measures to be taken concerning Intra-European Payments pending the establishment of a European Payments Union;

Desirous of avoiding an interruption as between the operation of the Agreement for Intra-European Payments and Compensations for 1949–1950, signed on 7th September, 1949, and that of the Agreement signed to-day;

Have agreed as follows:

1. Subject to the provisions of paragraph 3, the Parties to the present Protocol shall apply the Agreement provisionally as if the Agreement had been effective as from 1st July, 1950.

2. Subject to the provisions of paragraph 3, the present Protocol shall come into force on this day's date and shall continue in force until the Agreement comes into force; provided that Articles 34, 35 and 36 of the Agreement shall apply in relation to the present Protocol as they apply to the Agreement.

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[1] British Misc. No. 14 (1950), Cmd. 8064.

3. If at the time of its signature a Party to the present Protocol declares that the Agreement can, as far as that Party is concerned, be applied subject only to the condition that it be ratified in accordance with its constitutional processes,

(i) the present Protocol shall come into force, in so far as the said Party is concerned, on the date when its instrument of ratification is deposited in accordance with the provisions of Article 31 of the Agreement; and

(ii) the Agreement shall then be applied provisionally, in so far as the said Party is concerned, as if it had become effective on 1st July, 1950, or, if that Party when depositing its instrument of ratification notifies the Organisation for European Economic Co-operation (hereinafter referred to as the "Organisation") that this is not possible, then at the beginning of the accounting period in the course of which the instrument of ratification is deposited.

4. Any Member of the Organisation which accedes to the Agreement, in accordance with the provisions of Article 32 thereof, before its coming into force may accede to the present Protocol on such conditions and with effect from such date as the Organisation shall decide.

5.—(*a*) Any Party to the present Protocol may withdraw therefrom by giving notice in writing of its intention to withdraw to the Secretary-General of the Organisation (hereinafter referred to as the "Secretary-General") in the event that such Party is unable to ratify the Agreement and has notified the Organisation in accordance with paragraph (*d*) of Article 31 of the Agreement.

(*b*) At the end of the first accounting period following the date on which such notice is given, or at such later date as may be specified in the notice, the Party giving it shall cease to be a Party to the present Protocol.

(*c*) The Secretary-General will immediately inform all Parties to the present Protocol and the Agent within the meaning of Article 18 of the Agreement, of any notice given under the present paragraph.

6. Unless the Organisation decides otherwise, the present Protocol shall terminate if the quotas of the Parties should amount in aggregate to less than 50 per cent. of the total amount of the quotas initially fixed by Article 11 of the Agreement.

7. If the provisions of paragraphs 5 or 6 of the present Protocol are applied,

(i) the operations relating to the accounting period at the end of which the present Protocol terminates in respect of a Party or in respect of the Parties generally, shall nevertheless be carried out; and

(ii) the rights and obligations of the Party or Parties concerned shall be determined in accordance with the provisions of Section I or Section II, as the case may be, of Annex B to the Agreement.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly empowered, have appended their signatures to the present Protocol.

DONE in Paris this nineteenth day of September, Nineteen Hundred and Fifty, in the English and French languages, both texts being equally authentic, in a single copy which shall remain deposited with the Secretary-General of the Organisation for European Economic Co-operation by whom certified copies will be communicated to all Signatories of the present Protocol.

. . . .

The European Coal and Steel Community

12. TREATY, APRIL 18, 1951 [1]

The President of the German Federal Republic, His Royal Highness the Prince Royal of Belgium, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Considering that world peace may be safeguarded only by creative efforts equal to the dangers which menace it;

Convinced that the contribution which an organized and vital Europe can bring to civilization is indispensable to the maintenance of peaceful relations;

Conscious of the fact that Europe can be built only by concrete actions which create a real solidarity and by the establishment of common bases for economic development;

Desirous of assisting through the expansion of their basic production in raising the standard of living and in furthering the works of peace;

Resolve to substitute for historic rivalries a fusion of their essential interests; to establish, by creating an economic community, the foundation of a broad and independent community among peoples long divided by bloody conflicts; and to lay the bases of institutions capable of giving direction to their future common destiny;

Have decided to create a European Coal and Steel Community and to this end have designated as plenipotentiaries:

. . . .

Which, having exchanged their powers, found in good and due form, have agreed to the following provisions.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 255–295. Entered into force July 25, 1952, upon the deposit of the last instrument of ratification (date of entry into force commonly fixed as July 23, 1952; however, that was the date of ratification, not of deposit of ratifications, by Germany and Luxembourg).

TITLE ONE—THE EUROPEAN COAL AND STEEL COMMUNITY

ARTICLE 1

By the present Treaty the High Contracting Parties institute among themselves a EUROPEAN COAL AND STEEL COMMUNITY, based on a common market, common objectives, and common institutions.

ARTICLE 2

The mission of the European Coal and Steel Community is to contribution [contribute] to economic expansion, the development of employment and the improvement of the standard of living in the participating countries through the institution, in harmony with the general economy of the member States, of a common market as defined in Article 4.

The Community must progressively establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity, while safeguarding the continuity of employment and avoiding the creation of fundamental and persistent disturbances in the economies of the member States.

ARTICLE 3

Within the framework of their respective powers and responsibilities and in the common interest, the institutions of the Community shall:

(*a*) see that the common market is regularly supplied, taking account of the needs of third countries;

(*b*) assure to all consumers in comparable positions within the common market equal access to the sources of production;

(*c*) seek the establishment of the lowest prices which are possible without requiring any corresponding rise either in the prices charged by the same enterprises in other transactions or in the price-level as a whole in another period, while at the same time permitting necessary amortization and providing normal possibilities of remuneration for capital invested;

(*d*) see that conditions are maintained which will encourage enterprises to expand and improve their ability to produce and to promote a policy of rational development of natural resources, avoiding inconsiderate exhaustion of such resources;

(*e*) promote the improvement of the living and working conditions of the labor force in each of the industries under its jurisdiction so as to make possible the equalization of such conditions in an upward direction;

(*f*) further the development of international trade and see that equitable limits are observed in prices charged on external markets;

(*g*) promote the regular expansion and the modernization of production as well as the improvement of its quality, under conditions which preclude any protection against competing industries except where justified by illegitimate action on the part of such industries or in their favor.

ARTICLE 4

The following are recognized to be incompatible with the common market for coal and steel, and are, therefore, abolished and prohibited within the Community in the manner set forth in the present Treaty:

(*a*) import and export duties, or charges with an equivalent effect, and quantitative restrictions on the movement of coal and steel;

(*b*) measures or practices discriminating among producers, among buyers or among consumers, specifically as concerns prices, delivery terms and transportation rates, as well as measures or practices which hamper the buyer in the free choice of his supplier;

(*c*) subsidies or state assistance, or special charges imposed by the state, in any form whatsoever;

(*d*) restrictive practices tending towards the division of markets or the exploitation of the consumer.

ARTICLE 5

The Community shall accomplish its mission, under the conditions provided for in the present Treaty, with limited direct intervention.

To this end, the Community will:

Enlighten and facilitate the action of the interested parties by collecting information, organizing consultations and defining general objectives;

place financial means at the disposal of enterprises for their investments and participate in the expenses of readaptation;

assure the establishment, the maintenance and the observance of normal conditions of competition and take direct action with respect to production and the operation of the market only when circumstances make it absolutely necessary;

publish the justifications for its action and take the necessary measures to ensure observance of the rules set forth in the present Treaty.

The institutions of the Community shall carry out these activities with as little administrative machinery as possible and in close cooperation with the interested parties.

ARTICLE 6

The Community shall have juridical personality.

In its international relationships, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity which is recognized for legal persons of the nationality of the country in question. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.

The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

TITLE TWO—THE INSTITUTIONS OF THE COMMUNITY

ARTICLE 7

The institutions of the Community shall be as follows:

a High Authority, assisted by a *Consultative Committee;*
a Common Assembly, hereafter referred to as "the Assembly";
a Special Council, composed of Ministers, hereafter referred to as "the Council";
a Court of Justice, hereafter referred to as "the Court".

Chapter I—The High Authority

ARTICLE 8

The High Authority shall be responsible for assuring the fulfillment of the purposes stated in the present Treaty under the terms thereof.

ARTICLE 9

The High Authority shall be composed of nine members designated for six years and chosen for their general competence.

A member shall be eligible for reappointment. The number of members of the High Authority may be reduced by unanimous decision of the Council.

Only nationals of the member States may be members of the High Authority.

The High Authority may not include more than two members of the same nationality.

The members of the High Authority shall exercise their functions in complete independence, in the general interest of the Community. In the fulfillment of their duties, they shall neither solicit nor accept instructions from any government or from any organization. They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the High Authority in the execution of their duties.

The members of the High Authority may not exercise any business or professional activities, paid or unpaid, nor acquire or hold, directly or indirectly, any interest in any business related to coal and steel during their term of office or for a period of three years thereafter.

ARTICLE 10

The governments of the member States shall designate eight members of the High Authority by agreement among themselves. These eight members will elect a ninth member, who shall be deemed elected if he receives at least five votes.

The members thus designated will remain in office for six years following the date of the establishment of the common market.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 12, it will be filled under the provisions of the third paragraph of that article, by common agreement among the governments of the member States.

If, during the same period, the provisions of the third paragraph of Article 24 should be applied, the members of the High Authority shall be replaced under the provisions of the first paragraph of the present article.

At the expiration of this period, a complete redesignation shall take place, and the nine members shall be designated as follows: the governments of the member States, in the absence of unanimous agreement, will designate eight members by a five-sixths majority; the ninth will be chosen by vote of these eight under the terms of the first paragraph of the present article. The same procedure shall apply to a complete redesignation rendered necessary by application of Article 24.

One third of the members of the High Authority shall be redesignated every two years.

Whenever a complete redesignation shall occur, the sequence of retirement shall be immediately determined by lot on the initiative of the President of the Council.

The regular redesignations resulting from the expiration of the two-year periods shall be made alternately in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority under the terms of the first paragraph.

If vacancies should occur for one of the reasons provided in Article 12, these shall be filled under the provisions of the third paragraph of that article, alternatively, in the following order: by designation of the governments of the member States under the terms of the fifth paragraph of the present article, and by vote of the remaining members of the High Authority in accordance with the provisions of the first paragraph.

In all cases provided for in the present article where a member is designated by the governments by a five-sixths majority or by vote of the members of the High Authority, each government shall have a veto right under the following conditions:

If a government has used its right of veto with respect to two persons in the case of an individual redesignation and of four persons in the case of a general or biennial redesignation, any other exercise of that right on the same occasion may be referred to the Court by another government; the Court may declare the veto null and void if it considers it abusive.

Except in the case of removal under the provisions of the second paragraph of Article 12, the members of the High Authority shall remain in office until their replacement.

ARTICLE 11

The President and the Vice President of the High Authority shall be designated from among the membership of the High Authority for two years, in accordance with the procedure provided for the designation of the members of the High Authority by the governments of the member States. They may be reelected.

Except in the case of a complete redesignation of the membership of the High Authority, the designation of the President and Vice President shall be made after consultation with the High Authority.

ARTICLE 12

In addition to the provisions for regular redesignation, the terms of office of a member of the High Authority may be terminated by death or resignation.

Members who no longer fulfill the conditions necessary to the exercise of their functions or who have committed a gross fault may be removed from office by the Court on petition by the High Authority or the Council.

In the cases provided in the present Article, the member in question shall be replaced for the remainder of his term, under the provisions of Article 10. There shall be no such replacement if the remainder of his term is less than three months.

ARTICLE 13

The High Authority shall act by vote of a majority of its membership.

Its quorum shall be fixed by its rules of procedure. However, this quorum must be greater than one-half of its membership.

ARTICLE 14

In the execution of its responsibilities under the present Treaty and in accordance with the provisions thereof, the High Authority shall issue decisions, recommendations and opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

When the High Authority is empowered to issue a decision, it may limit itself to making a recommendation.

ARTICLE 15

The decisions, recommendations and opinions of the High Authority shall state the reasons therefor, and shall take note of the opinions which the High Authority is required to obtain.

When such decisions and recommendations are individual in character, they shall be binding on the interested party upon their notification to him.

In other cases, they shall take effect automatically upon publication.

The High Authority shall determine the manner in which the provisions of the present article are to be carried out.

ARTICLE 16

The High Authority shall take all appropriate measures of an internal nature to assure the functioning of its services.

It may institute study Groups and specifically an economic study Group.

Within the framework of general organizational regulations established by the High Authority, the President of the High Authority shall be responsible for the administration of its services, and shall insure the execution of the acts of the High Authority.

ARTICLE 17

The High Authority shall publish annually, at least a month before the meeting of the Assembly, a general report on the activities of the Community and on its administrative expenditures.

ARTICLE 18

There shall be created a Consultative Committee, attached to the High Authority. It shall consist of not less than thirty and not more than fifty-one members, and shall include producers, workers and consumers and dealers in equal numbers.

The members of the Consultative Committee shall be appointed by the Council.

As concerns producers and workers, the Council shall designate the representative organizations among which it shall allocate the seats to be filled. Each organization shall be asked to draw up a list comprising twice the number of seats allocated to it. Designations shall be made from this list.

The members of the Consultative Committee shall be designated in their individual capacity. They shall not be bound by any mandate or instruction from the organizations which proposed them as candidates.

A President and officers shall be elected for one-year terms by the Consultative Committee from its own membership. The Committee shall fix its own rules of procedure.

The allowances of members of the Consultative Committee shall be determined by the Council on proposal by the High Authority.

ARTICLE 19

The High Authority may consult the Consultative Committee in any case it deems proper. It shall be required to do so whenever such consultation is prescribed by the present Treaty.

The High Authority shall submit to the Consultative Committee the general objectives and programs established under the terms of Article 46, and shall keep the Committee informed of the broad lines of its action under the terms of Articles 54, 65 and 66.

If the High Authority deems it necessary, it shall give the Consultative Committee a period in which to present its opinion of not less than ten days from the date of the notification to that effect addressed to the President of the Committee.

The Consultative Committee shall be convoked by its President, either at the request of the High Authority or at the request of a majority of its members, for the purpose of discussing a given question.

The minutes of the meetings shall be transmitted to the High Authority and to the Council at the same time as the opinions of the Committee.

Chapter II—The Assembly

ARTICLE 20

The Assembly, composed of representatives of the peoples of the member States of the Community, shall exercise the supervisory powers which are granted to it by the present Treaty.

ARTICLE 21

The Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party.

The number of delegates is fixed as follows:

Germany	18
Belgium	10
France	18
Italy	18
Luxembourg	4
Netherlands	10

The representatives of the people of the Saar are included in the number of delegates attributed to France.

ARTICLE 22

The Assembly shall hold an annual session. It shall convene regularly on the second Tuesday in May. Its session may not last beyond the end of the then current fiscal year.

The Assembly may be convoked in extraordinary session on the request of the Council in order to state its opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session on the request of a majority of its members or of the High Authority.

ARTICLE 23

The Assembly shall designate its President and officers from among its membership.

The members of the High Authority may attend all meetings. The President of the High Authority or such of its members as it may designate shall be heard at their request.

The High Authority shall reply orally or in writing to all questions put to it by the Assembly or its members.

The members of the Council may attend all meetings and shall be heard at their request.

ARTICLE 24

The Assembly shall discuss in open session the general report submitted to it by the High Authority.

If a motion of censure on the report is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following its introduction, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the High Authority must resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 10.

ARTICLE 25

The Assembly shall fix its own rules of procedure, by vote of a majority of its total membership.

The acts of the Assembly shall be published in a manner to be prescribed in such rules of procedure.

Chapter III—The Council

ARTICLE 26

The Council shall exercise its functions in the events and in the manner provided in the present Treaty, in particular with a view to harmonizing the action of the High Authority and that of the governments, which are responsible for the general economic policy of their countries.

To this end, the Council and the High Authority shall consult together and exchange information.

The Council may request the High Authority to examine all proposals and measures which it may deem necessary or appropriate for the realization of the common objectives.

ARTICLE 27

The Council shall be composed of representatives of the member States. Each State shall designate thereto one of the members of its government.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

ARTICLE 28

Meetings of the Council shall be called by its President on the request of a State or of the High Authority.

When the Council is consulted by the High Authority, it may deliberate without necessarily proceeding to a vote. The minutes of its meetings shall be forwarded to the High Authority.

Wherever the present Treaty requires the concurrence of the Council, this concurrence shall be deemed to have been granted if the proposal submitted by the High Authority is approved:

> by an absolute majority of the representatives of the member States, including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community;
>
> or, in case of an equal division of votes, and if the High Authority maintains its proposal after a second reading, by the representatives of two member States, each of which produces at least twenty percent of the total value of coal and steel in the Community.

Wherever the present Treaty requires a unanimous decision or unanimous concurrence, such decision or concurrence will be adopted if supported by the votes of all the members of the Council.

The decisions of the Council, other than those which require a qualified majority or a unanimous vote, will be taken by a vote of the majority of the total membership. This majority shall be deemed to exist if it includes the absolute majority of the representatives of the member States including the vote of the representative of one of the States which produces at least twenty percent of the total value of coal and steel produced in the Community.

In case of a vote, any member of the Council may act as proxy for not more than one other member.

The Council shall communicate with the member States through the intermediary of its President.

The acts of the Council shall be published under a procedure which it shall establish.

ARTICLE 29

The Council shall fix the salaries, allowances and pensions of the President and members of the High Authority, and of the President, the judges, the Court advocates and the clerk of the Court.

ARTICLE 30

The Council shall establish its own rules of procedure.

Chapter IV—The Court

ARTICLE 31

The function of the Court is to ensure the rule of the law in the interpretation and application of the present Treaty and of its implementing regulations.

ARTICLE 31 [32]

The Court shall be composed of seven judges, appointed for six years by agreement among the governments of the member States from among persons of recognized independence and competence.

A partial change in membership of the Court shall occur every three years, affecting alternatively three members and four members. The three members whose terms expire at the end of the first period of three years shall be designated by lot.

Judges shall be eligible for reappointment.

The number of judges may be increased by unanimous vote of the Council on proposal by the Court.

The judges shall designate one of their number as President for a three-year term.

ARTICLE 33

The court shall have jurisdiction over appeals by a member State or by the Council for the annulment of decisions and recommendations of the High Authority on the grounds of lack of legal competence, substantial procedural violations, violation of the Treaty or of any rule of law relating to its application, or abuse of power. However, the Court may not review the conclusions of the High Authority, drawn from economic facts and circumstances, which formed the basis of such decisions or recommendations, except where the High Authority is alleged to have abused its powers or to have clearly misinterpreted the provisions of the Treaty or of a rule of law relating to its application.

The enterprises, or the associations referred to in Article 48, shall have the right of appeal on the same grounds against individual decisions and recommendations concerning them, or against general decisions and recommendations which they deem to involve an abuse of power affecting them.

The appeals provided for in the first two paragraphs of the present article must be taken within one month from the date of the notification or the publication, as the case may be, of the decision or recommendation.

ARTICLE 34

If the Court should annul a decision or recommendation of the High Authority, the matter shall be remanded to the High Authority. The latter must take the necessary measures in order to give effect to the judgment of annulment. In case a decision or recommendation is adjudged by the Court to involve a fault for which the Community is liable, and causes a direct and particular injury to an enterprise or a group of enterprises, the High Authority must take such measures, within the powers granted to it by the present Treaty, as will assure an equitable redress for the injury resulting directly from the decision or recommendation which has been annulled, and, to the extent necessary, must grant a reasonable indemnity.

If the High Authority fails to take within a reasonable period the measures required to give effect to a judgment of annulment, an appeal for damages may be brought before the Court.

ARTICLE 35

In the cases where the High Authority is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation, and fails to fulfill this obligation, such omission may be brought to its attention by the States, the Council or the enterprises and associations, as the case may be.

The same shall be true if the High Authority refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or implementing regulations, where such failure to act constitutes an abuse of power.

If at the end of a period of two months the High Authority has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

ARTICLE 36

Prior to imposing a pecuniary sanction or fixing a daily penalty payment provided for in the present Treaty, the High Authority shall give the interested enterprise an opportunity to present its views.

An appeal to the general jurisdiction of the Court may be taken from the pecuniary sanctions and daily penalty payments imposed under the provisions of the present Treaty.

In support of such an appeal, and under the terms of the first paragraph of Article 33 of the present Treaty, the petitioners may contest the regularity of the decisions and recommendations which they are charged with violating.

ARTICLE 37

If a member State shall deem that in a given case an action of the High Authority, or a failure by it to act, is of such a nature as to provoke fundamental and persistent disturbances in the economy of such State, it may bring the matter to the attention of the High Authority.

The latter, after having obtained the opinion of the Council, will recognize the existence of such situation, if any, and decide on the measures to be taken, under the terms of the present Treaty, to correct such situation while at the same time safeguarding the essential interests of the Community.

When an appeal is taken to the Court under the provisions of the present Article against such decision or against the explicit or implicit decision refusing to recognize the existence of the situation mentioned above, the Court shall review the sufficiency of the grounds of such decision.

In case of annulment, the High Authority shall decide, within the framework of the Court's judgment, the measures to be taken to fulfill the objectives set forth in the second paragraph of the present article.

ARTICLE 38

On the petition of a member State or of the High Authority, the Court may annual [annul] the acts of the Assembly or of the Council.

The petition must be submitted within one month from the publication of such act of the Assembly or of the notification of such act of the Council to the member States or to the High Authority.

Such an appeal may be based only on the grounds of lack of legal competence or substantial procedural violations.

ARTICLE 39

Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand, the Court may order the suspension of the execution of the decision or recommendation in question.

It may prescribe any other necessary provisional measures.

ARTICLE 40

Subject to the provisions of the first paragraph of Article 34, the Court shall have jurisdiction to assess damages against the Community, at the request of the injured party, in cases where injury results from a fault involved in an official act of the Community in execution of the present Treaty.

It shall also have jurisdiction to assess damages against any official or employee of the Community, in cases where injury results from a personal fault of such official or employee in the performance of his duties. If the injured party is unable to recover such damages from such official or employee, the Court may assess an equitable indemnity against the Community.

All other litigation between the Community and third parties, other than that relating to the application of the provisions of the present Treaty and implementing regulations, shall be brought before the national tribunals.

ARTICLE 41

When the validity of acts of the High Authority or the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

ARTICLE 42

The Court shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

ARTICLE 43

The Court shall have jurisdiction in any other case provided for in a supplementary provision of the Treaty.

It may also exercise jurisdiction in any case relating to the objects of the present Treaty, where the laws of a member State grant such jurisdiction to it.

ARTICLE 44

The judgment of the Court shall be executory on the territory of the member States under the terms of Article 92 below.

ARTICLE 45

The Code of the Court shall be contained in a Protocol annexed to the present Treaty.[1]

TITLE THREE—ECONOMIC AND SOCIAL PROVISIONS

Chapter I—General Provisions

ARTICLE 46

The High Authority may at any time consult the governments, the various interested parties (enterprises, workers, consumers and dealers) and their associations, as well as any experts.

Enterprises, workers, consumers and dealers, and their associations, may present any suggestion or observations to the High Authority on questions which concern them.

In order to provide guidance for the action of all of the interested parties in the achievement of the purposes assigned to the Community, and to determine its own action within the framework of the present Treaty, the High Authority shall, by means of the consultations mentioned above:

(1) carry on a permanent study of markets and price tendencies;

(2) periodically draw up non-compulsory program forecasts dealing with production, consumption, exports and imports;

(3) periodically work out general programs with respect to modernization, the long-term orientation of manufacturing and the expansion of productive capacity;

(4) at the request of the interested governments, participate in the study of the possibilities of reemployment, either in existing industries or through the creation of new activities, of workers set at liberty by the evolution of the market or by technical transformations;

(5) gather all information necessary to the appraisal of the possibilities of improving the living and working conditions of the labor force in the industries under its jurisdiction, and of the risks which menace such living conditions.

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[1] Not reprinted here.

It shall publish the general objectives and programs after having submitted them to the Consultative Committee.

It may make public the studies and information mentioned above.

ARTICLE 47

The High Authority may gather such information as may be necessary to the accomplishment of its mission. It may have the necessary verifications carried out.

The High Authority shall not divulge information which by its nature is considered a professional secret, and in particular information pertaining to the commercial relations or the breakdown of the costs of production of enterprises. With this reservation, it shall publish such data as may be useful to governments or to any other interested parties.

The High Authority may impose fines and daily penalty payments upon those enterprises which evade their obligations resulting from decisions made in application of the provisions of the present article, or which knowingly furnish false information. The maximum amount of such fines shall be one percent of the annual turnover and the maximum amount of such penalty payments shall be five percent of the average daily turnover for each day the violation continues.

Any violation by the High Authority of professional secrecy which has caused damage to an enterprise may be the subject of a suit for damages before the Court under the conditions provided for in Article 40.

ARTICLE 48

The right of enterprises to form associations is not affected by the present Treaty. Membership in such associations must be voluntary. The associations may engage in any activity which is not contrary to the provisions of the present Treaty or to the decisions or recommendations of the High Authority.

In cases where the present Treaty requires the consultation of the Consultative Committee, any association has the right to submit to the High Authority, within the time limits fixed by the latter, the observations of its members on the action envisaged.

The High Authority will normally call upon producers' associations to obtain information which it requires or to facilitate the fulfillment of its tasks, provided that the associations in question either permit the qualified representatives of the workers and consumers to participate in the leadership of these associations or in consultative committees affiliated to them, or in any other way give a satisfactory place in their organization to the expression of the workers' and consumers' interests.

The associations referred to in the preceding paragraph shall be obliged to furnish the High Authority with such information on their activity as the High Authority may deem necessary. The observations mentioned in the second paragraph of the present article and the information furnished under the fourth paragraph shall also be forwarded by the associations to the government concerned.

Chapter II—Financial Provisions

ARTICLE 49

The High Authority is empowered to procure the funds necessary to the accomplishment of its mission:

by placing levies on the production of coal and steel;
by borrowing.

It may also receive grants.

ARTICLE 50

1. The levies are intended to cover:

the administrative expenses provided for in Article 78;

the non-reimbursable assistance provided for in Article 56, concerning readaptation;

as concerns the financial facilities provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the servicing charges on the High Authority's obligations which cannot be covered by receipts from the servicing of loans granted by the High Authority, as well as payments which might be required by virtue of the operation of the Authority's guarantee on loans obtained directly by the enterprises;

expenditures to encourage technical and economic research as provided for in section 2 of Article 55.

2. The levies are assessed annually on the various products according to their average value; the rate of levy may not exceed one percent unless previously authorized by a two-thirds majority of the Council The method of assessment and collection shall be fixed by a general decision of the High Authority taken after consulting the Council; to the extent possible, cumulative taxation shall be avoided.

3. The High Authority may impose increases of not more than 5 percent per quarter-year of delay in payment upon enterprises which do not obey the decisions which it may issue in application of the present article.

ARTICLE 51

1. The funds obtained by borrowing may be used by the High Authority only to grant loans.

The issuance of the obligations of the High Authority on the markets of member States shall be subject to the regulations in effect on these markets.

In case the High Authority shall deem the guarantee of member governments necessary in order to contract loans, it shall approach the interested government or governments after consulting the Council. No government shall be required to give its guarantee.

2. In accordance with the terms of Article 54, the High Authority may guarantee loans granted directly to enterprises by third parties.

3. The High Authority may adjust its terms for loans or guarantees in order to build up a reserve fund, for the sole purpose of reducing the size of the levy provided for in the third sub-paragraph of section

1 of Article 50; the sums thus accumulated may not be used in any manner to grant loans to enterprises.

4. The High Authority itself shall not perform the operations of a banking nature which may be required to carry out its financial missions.

ARTICLE 52

The member States shall take all necessary measures to assure the free transfer within the territories mentioned in the first paragraph of Article 79, and through the channels employed for commercial payments, of funds derived from levies, from pecuniary sanctions of all kinds, and from the reserve fund, to the extent necessary to their use for the purposes set forth in the present Treaty.

The methods of transfer among member States, as well as to third countries, of funds resulting from the other financial operations effected by the High Authority or under its guarantee shall be the subject of agreements concluded by the High Authority with the interested governments or the competent bodies; no member State which applies exchange controls shall be obliged to assure any such transfers to which it has not explicitly agreed.

ARTICLE 53

Without prejudice to the provisions of Article 58 and of Chapter V of Title Three, the High Authority may:

(*a*) after consulting the Consultative Committee and the Council, authorize the institution, under conditions which it shall determine and under its control, of any financial mechanisms common to several enterprises which are deemed necessary for the accomplishment of the missions defined in Article 3 and compatible with the provisions of the present Treaty and particularly of Article 65;

(*b*) with the concurrence of the Council acting by unanimous vote, institute itself any financial mechanism satisfying the same purposes as referred to above.

Mechanisms of the same nature instituted or maintained by the member States shall be reported to the High Authority which, after consulting the Consultative Committee and the Council, shall address to the interested States the necessary recommendations, in case such mechanisms should be wholly or partly contrary to the application of the present Treaty.

Chapter III—Investments and Financial Assistance

ARTICLE 54

The High Authority may facilitate the carrying out of investment programs by granting loans to enterprises or by giving its guarantee to loans which they may obtain elsewhere.

With the concurrence of the Council acting by unanimous vote, the High Authority may assist by the same means in financing works and installations which contribute directly and principally to increase production, lower production costs or facilitate marketing of products subject to its jurisdiction.

In order to encourage a coordinated development of investments, the High Authority may, in accordance with the provisions of Article 47, require enterprises to submit individual programs in advance, either by a special demand addressed to the enterprise concerned or by a decision defining the nature and the size of the programs which must be submitted.

Within the framework of the general programs described in Article 46, the High Authority may, after having given the interested parties an opportunity to present their views, issue an opinion on such programs, accompanied by a justification. It is obliged to issue such an opinion when so requested by an enterprise. The High Authority shall notify the enterprise of its opinion and shall bring it to the attention of the government concerned. The list of opinions shall be made public.

If the High Authority finds that the financing of a program or the operation of the installations which it entails would require subsidies, assistance, protection or discrimination contrary to the present Treaty, the unfavorable opinion taken by virtue of this justification shall have the force of a decision as defined in Article 14, and shall have the effect of prohibiting the enterprise concerned from resort to resources other than its own funds to put such program into effect.

The High Authority may impose fines not exceeding the sums unduly devoted to realization of the program in question on enterprises which violate the provisions of the above paragraph.

ARTICLE 55

1. The High Authority shall encourage technical and economic research concerning the production and the development of consumption of coal and steel, as well as labor safety in these industries. To this end, it shall establish all appropriate contacts among existing research organizations.

2. After consultation with the Consultative Committee, the High Authority may initiate and facilitate the development of such research work:

(*a*) by encouraging joint financing by the interested enterprises; or

(*b*) by earmarking for that purpose any grants it may receive; or

(*c*) with the concurrence of the Council by earmarking for that purpose funds derived from the levies provided for in Article 50, without, however, going beyond the ceiling defined in section 2 of that article.

The results of the research financed under the conditions set forth in subparagraphs (*b*) and (*c*) above shall be placed at the disposal of all interested parties in the Community.

3. The High Authority shall make all useful suggestions for the dissemination of technical improvements, particularly with regard to the exchange of patents and the granting of licenses.

ARTICLE 56

If the introduction of technical processes or new equipment within the framework of the general programs of the High Authority, should lead to an exceptional reduction in labor requirements in the coal or steel industries, creating special difficulties in one or more areas for the re-employment of the workers released, the High Authority, on the request of the interested governments:

(*a*) will consult the Consultative Committee;

(*b*) may facilitate, in accordance with the methods provided for in Article 54, the financing of such programs as it may approve for the creation, either in the industries subject to its jurisdiction or, with the concurrence of the Council, in any other industry, of new and economically sound activities capable of assuring productive employment to the workers thus released;

(*c*) will grant non-reimbursable assistance to contribute to:

the payment of indemnities to tide the workers over until they can obtain new employment;

the granting of allowances to the workers for reinstallation expenses;

the financing of technical retraining for workers who are led to change their employment.

The High Authority shall condition the granting of non-reimbursable assistance on the payment by the interested State of a special contribution at least equal to such assistance, unless a two-thirds majority of the Council authorizes an exception to this rule.

Chapter IV—Production

ARTICLE 57

In the field of production, the High Authority shall give preference to the indirect means of action at its disposal, such as:

cooperation with governments to regularize or influence general consumption, particularly that of the public services;

intervention on prices and commercial policy as provided for in the present Treaty.

ARTICLE 58

1. In case of a decline in demand, if the High Authority deems that the Community is faced with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to cope with that situation, it shall, after consulting the Consultative Committee and with the concurrence of the Council, establish a system of production quotas, accompanied to the extent necessary, by the measures provided for in Article 74.

If the High Authority fails to act, one of the member States may bring the matter to the attention of the Council which, acting by unanimous vote, may require the High Authority to establish a system of quotas.

2. The High Authority, after consultation with the enterprises and their associations, shall establish quotas on an equitable basis in accordance with the principles defined in Articles 2, 3 and 4. The High Authority may in particular regulate the rate of operation of the enterprises by appropriate levies on tonnages exceeding a reference level defined by a general decision.

The sums thus obtained will be earmarked for the support of those enterprises whose production rate has dropped below the level envisaged, particularly in order to ensure as far as possible the maintenance of employment in those enterprises.

3. The system of quotas shall be terminated automatically upon a proposal to the Council by the High Authority after consulting the Consultative Committee, or by the government of one of the member States, except in the case of a contrary decision of the Council; such decision must be taken by unanimous vote, if the proposal originates with the High Authority, or by simple majority if the proposal originates with a government. The termination of the quota system shall be published by the High Authority.

4. The High Authority may impose upon enterprises violating the decisions taken by it in application of the present article, fines not to exceed a sum equal to the value of the irregular production.

ARTICLE 59

1. If, after consulting the Consultative Committee, the High Authority finds that the Community is faced with a serious shortage of certain or all of the products subject to its jurisdiction, and that the means of action provided for in Article 57 do not enable it to cope with the situation, it shall bring this situation to the attention of the Council, and, unless the Council decides otherwise by unanimous vote, shall propose the necessary measures.

If the High Authority fails to take any initiative, one of the member States may bring the matter before the Council, which by unanimous decision may recognize the existence of the situation mentioned above.

2. Acting by unanimous vote, on the basis of proposals by and in consultation with the High Authority, the Council shall establish consumption priorities and determine the allocation of the coal and steel resources of the Community among the industries subject to its jurisdiction, exports, and other consumption.

On the basis of the consumption priorities thus determined, the High Authority shall, after consulting the enterprises concerned, establish manufacturing programs which the enterprises shall be required to execute.

3. If the Council fails to reach a unanimous decision on the measures referred to in Section 2, the High Authority will itself proceed to allocate the resources of the Community among the member States on the basis of consumption and exports and independently of the location of production.

The allocation of the resources assigned by the High Authority shall be carried out within each of the member States under the responsibility of the government of that State, which shall consult with the High Authority concerning the portion of such resources to be assigned to export and to the operation of the coal and steel industries.

If the quantities actually exported by a member State are less than the scheduled quantities which were included in the basis for total allocations to the State in question, the High Authority will to the extent necessary redistribute among the member States the additional availabilities for consumption thus created, whenever a new allocation is made.

If a relative reduction in the quantities directed by a government to the coal and steel industries leads to a reduction in production of one of these products in the Community, the allocation of that product to the member State in question at the time of a new allocation shall be reduced to the same extent as the reduction in production for which it is responsible.

4. In all cases, the High Authority, acting on the basis of studies undertaken in consultation with the enterprises and their associations, shall be responsible for allocating equitably among enterprises the quantities earmarked for the industries under its jurisdiction.

5. In the situation described in Section 1 of the present article, the High Authority may, after consulting the Consultative Committee and with the concurrence of the Council, decide on the establishment in all member States of restrictions on exports to third countries in conformity with the provisions of Article 57; in the absence of any initiative on the part of the High Authority, the Council may take such a decision by unanimous vote upon the proposal of a government.

6. The High Authority may terminate the system set up in conformity with the present Article after consultation with the Consultative Committee and the Council. It may not override a unanimous vote of the Council opposing such termination.

If the High Authority fails to take any initiative, the Council may, by unanimous vote, terminate the system of allocation.

7. The High Authority may impose upon enterprises which violate the decisions taken in application of the present article, fines not to exceed in amount twice the value of the manufactures or deliveries prescribed and not executed or diverted from their proper use.

Chapter V—Prices

ARTICLE 60

1. Pricing practices contrary to the provisions of Articles 2, 3 and 4 are prohibited, particularly:

> unfair competitive practices, in particular purely temporary or purely local price reductions whose purpose is to acquire a monopoly position within the common market;
>
> discriminatory practices involving the application by a seller within the single market of unequal conditions to comparable transactions, especially according to the nationality of the buyer.

After consultation with the Consultative Committee and the Council, the High Authority may define the practices covered by this prohibition.

2. For the above purposes:

(*a*) the prices scales and conditions of sales to be applied by enterprises within the single market shall be made public to the extent and in the form prescribed by the High Authority after consultation with the Consultative Committee; if the High Authority deems that an enterprise has chosen an abnormal base point for its price quotations, in particular one which makes it possible to evade the provisions of subparagraph (*b*) below, it will make the appropriate recommendations to that enterprise.

(*b*) the prices charged by an enterprise within the common market, calculated on the base of the point chosen for the enterprise's price scale must not as a result of the methods of quotation:

be higher than the price indicated by the price scale in question for a comparable transaction; or

be less than this price by a margin greater than:

either the margin which would make it possible to align the offer in question on that price scale, set up on the basis of another point, which procures for the buyer the lowest price at the place of delivery;

or a limit fixed by the High Authority for each category of products, after consultation with the Consultative Committee, taking into account the origin and destination of such products.

These decisions shall be taken when they appear necessary to avoid disturbances in all or any part of the common market, or disequilibria which would result from a divergence between the methods of price quotation used for a product and for the materials which enter into its manufacture.

These decisions shall not prevent enterprises from aligning their quotations on the prices offered by enterprises outside the Community, provided that such transactions are reported to the High Authority; the latter may, in case of abuse, limit or eliminate the right of the enterprises in question to benefit from this exception.

ARTICLE 61

On the basis of studies undertaken in cooperation with the enterprises and their associations in accordance with the provisions of the first paragraph of Article 46 and the third paragraph of Article 48, and after consultation with the Consultative Committee and the Council as to the advisability of these measures as well as concerning the price level which they determine, the High Authority may fix for one or more products subject to its jurisdiction:

(*a*) maximum prices within the common market, if it deems that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (*c*) thereof;

(*b*) minimum prices within the common market, if it deems that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives defined in Article 3;

(*c*) after consultation with the enterprises concerned or their associations, and according to methods adapted to the nature of the export markets, minimum or maximum export prices, if such action can be effectively supervised and appears necessary either because of dangers to the enterprises on account of the situation of the market or to pursue in international economic relations the objective, defined in Article 3, paragraph (*f*), without prejudice, in the case of minimum prices, to the application of the measures provided for in the last paragraph of section 2 of Article 60.

In price fixing limits the High Authority shall take into account the need to assure the ability to compete both of the coal and steel industries and of the consuming industries, in accordance with the principles defined in Article 3, paragraph (*c*).

If the High Authority should fail to act under the circumstances described above, the government of one of the member States may refer the matter to the Council; the latter may, by unanimous decision, invite the High Authority to fix such maximum or minimum prices.

ARTICLE 62

If the High Authority should deem that such an action would be the most appropriate one in order to prevent the price of coal from being established at the level of the production costs of the most costly mine whose production is temporarily required to assure accomplishment of the missions defined in Article 3, the High Authority may, after consulting the Consultative Committee, authorize compensations:

among enterprises of the same basin to which the same price scales are applicable;

after consulting the Council, among enterprises situated in different basins.

Such compensations may, in addition, be undertaken under the terms of Article 53.

ARTICLE 63

1. If the High Authority finds that discrimination is being systematically practised by buyers, particularly as concerns orders placed by government subsidiaries, it shall make the necessary recommendations to the governments concerned.

2. To the extent that if finds necessary, the High Authority may decide that:

(*a*) enterprises shall establish their conditions of sale in such a way that their customers or their agents shall be obliged to conform to the rules established by the High Authority in application of the provisions of this Chapter;

(*b*) enterprises shall be made responsible for infractions committed by their direct agents or by dealers acting on behalf of such enterprises.

In case of a violation committed by a buyer against the obligations so contracted, the High Authority may limit the right of the enterprises of the Community to deal with the said buyer, to a degree which may entail temporary deprivation of access to the market in case of repeated infractions. In this case, and without prejudice to the provisions of Article 33, the buyer may appeal to the Court.

3. In addition, the High Authority is empowered to address to the member States such recommendations as may be necessary to ensure that any enterprise or organization engaged in distribution of coal or steel shall respect the rules established in application of Section 1 of Article 60.

ARTICLE 64

The High Authority may impose upon enterprises which violate the provisions of the present Chapter or the decisions taken in application thereof, fines not to exceed twice the value of the irregular sales. In case of second offense, the above maximum may be doubled.

Chapter VI—Agreements and Concentrations

ARTICLE 65

1. There are hereby forbidden all agreements among enterprises, all decisions of associations of enterprises, and all concerted practices, which would tend, directly or indirectly, to prevent, restrict or impede the normal operation of competition within the common market, and in particular:

(*a*) to fix or influence prices;

(*b*) to restrict or control production, technical development or investments;

(*c*) to allocate markets, products, customers or sources of supply.

2. However, the High Authority will authorize enterprises to agree among themselves to specialize in the production of, or to engage in joint buying or selling of specified products, if the High Authority finds:

(*a*) that such specialization or such joint buying or selling will contribute to a substantial improvement in the production or marketing of the products in question; and

(*b*) that the agreement in question is essential to achieve such effects, and does not impose any restriction not necessary for that purpose; and

(*c*) that it is not susceptible of giving the interested enterprises the power to influence prices, or to control or limit production or marketing of an appreciable part of the products in question within the common market, or of protecting them from effective competition by other enterprises within the common market.

If the High Authority should recognize that certain agreements are strictly analogous in their nature and effects to the agreements mentioned above, taking into account the application of the present section to distributing enterprises, it will authorize such agreements if it further recognizes that they satisfy the same conditions.

An authorization may be made subject to specified conditions and may be limited in time. If so limited, the High Authority will renew it once or several times if it finds that at the time of renewal the conditions stated in paragraph (*a*) to (*c*) above are still fulfilled.

The High Authority will revoke or modify the authorization if it finds that as a result of changes in circumstances the agreement no longer fulfills the conditions set forth above, or that the actual effects of the agreement or of the operations under it are contrary to the conditions required for its approval.

The decisions granting, modifying, refusing or revoking an authorization shall be published along with their justification; the limitations contained in the second paragraph of Article 47 shall not be applicable to such publication.

3. The High Authority may obtain, in accordance with the provisions of Article 47, any information necessary to the application of the present article, either by a special request addressed to the interested parties or by a regulation defining the nature of the agreements, decisions or practices which must be communicated to it.

4. Any agreement or decision which is prohibited by virtue of Section 1 of the present article shall be automatically void and may not be invoked before any court or tribunal of the member States.

The High Authority has exclusive competence, subject to appeals to the Court, to rule on the conformity of such agreements or decisions with the provisions of the present article.

5. The High Authority may pronounce against enterprises:

which have concluded an agreement which is automatically void;

which have complied with, enforced or attempted to enforce by arbitration, forfeiture, boycott or any other means, an agreement or decision which is automatically void or an agreement for which approval has been refused or revoked;

which shall have obtained an authorization by means of knowingly false or misleading information; or

which engage in practices contrary to the provisions of Section 1,

fines and daily penalty payments not to exceed double the turnover actually realized on the products which have been the subject of the agreement, decision or practice contrary to the provisions of the present article; if the object of the agreement is to restrict production, technical development or investments, this maximum may be raised to 10 percent of the annual turnover of the enterprises in question, in the case of fines, and 20 percent of the daily turnover in the case of daily penalty payments.

ARTICLE 66

1. Except as provided in paragraph 3 below, any transaction which would have in itself the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, involving enterprises at least one of which falls under the application of Article 80, shall be submitted to a prior authorization of the High Authority. This obligation shall be effective whether the operation in question is carried out by a person or an enterprise, or a group of persons or enterprises, whether it concerns a single product or different products, whether it is effected by merger, acquisition of shares or assets, loan, contract, or any other means of control. For the application of the above provisions, the High Authority will define by a regulation, established after consultation with the Council, what constitutes control of an enterprise.

2. The High Authority will grant the authorization referred to in the preceding paragraph if it finds that the transaction in question will not give to the interested persons or enterprises, as concerns those of the products in question which are subject to its jurisdiction, the power:

> to influence prices, to control or restrain production or marketing, or to impair the maintenance of effective competition in a substantial part of the market for such products; or
>
> to evade the rules of competition resulting from the application of the present Treaty, particularly by establishing an artificially privileged position involving a material advantage in access to supplies or markets.

In this appreciation, and in accordance with the principle of non-discrimination set forth in sub-paragraph (*b*) of Article 4, the High Authority will take account of the size of enterprises of the same nature existing in the Community, to the extent it deems justified to avoid or correct the disadvantages resulting from an inequality in the conditions of competition.

The High Authority may subject such an authorization to any conditions which it deems appropriate for the purposes of the present section.

Before taking action on a transaction concerning enterprises of which at least one is not subject to the application of Article 80, the High Authority will request the observations of the interested government.

3. The High Authority will exempt from the requirement of prior authorization those classes of transactions which, by the size of the assets or enterprises which they affect taken together with the nature of the concentration they bring about, must in its opinion be held to conform to the conditions required by Section 2. The regulation established for this purpose with the concurrence of the Council will also fix the conditions to which such exemption is to be subject.

4. Without limiting the applicability of the provisions of Article 47 to enterprises subject to its jurisdiction, the High Authority may obtain from physical or juridical persons who have acquired or regrouped or might acquire or regroup the rights or assets in question, any information necessary to the application of the present article concerning operations which might produce the effect mentioned in Section 1; it may do this either by a regulation established after consultation with the Council which defines the nature of the operations which must be communicated to it, or by a special demand addressed to the interested parties within the framework of such regulation.

5. If a concentration should occur, which the High Authority finds has been effected contrary to the provisions of Section 1 but which it finds nevertheless satisfies the conditions provided in Section 2, it will subject the approval of this concentration to the payment, by the persons who have acquired or regrouped the rights or assets in question, of the fine provided in the second sub-paragraph of Section 6; such payment shall not be less than half of the maximum provided in the said sub-paragraph in any case where it is clear that the authorization should have been requested. In the absence of this payment, the High Authority will apply the measures provided hereafter for concentrations found to be illegal.

If a concentration should occur which the High Authority recognizes cannot satisfy the general or special conditions to which an authorization under Section 2 would be subject, it will establish the illegal character of this concentration by a decision accompanied by a justification; after having allowed the interested parties to present their observations, the High Authority shall order the separation of the enterprises or assets wrongly concentrated or the cessation of common control, as well as any other action which it deems appropriate to re-establish the independent operation of the enterprises or assets in question and to restore normal conditions of competition. Any person directly interested may take an appeal against such decisions under the conditions provided in Article 33. Notwithstanding the provisions of that article, the Court shall be fully competent to judge whether the operation effected is a concentration within the meaning of Section 1 of the present article and of the regulations issued in application of that section. This appeal shall be suspensive. It may not be taken until the measures provided above have been ordered, unless the High Authority should agree to the taking of a separate appeal against the decision declaring the transaction illegal.

The High Authority may at any time, subject to the possible application of the provisions of the third paragraph of Article 39, take or cause to be taken such measures as it may deem necessary to safeguard the interests of competing enterprises and of third parties, and to prevent any action which might impede the execution of its decisions. Unless the Court decides otherwise, appeals shall not suspend the application of such precautionary measures.

The High Authority will grant to the interested parties a reasonable period in which to execute its decisions, at the expiration of which it may begin to impose daily penalty payments not to exceed one tenth of one percent of the value of the rights or assets in question.

Furthermore, if the interested parties fail to fulfill their obligations, the High Authority shall itself take measures of execution and in particular may: suspend the exercise, in enterprises subject to its jurisdiction, of the rights attached to the assets illegally acquired; bring about the designation by judicial authorities of a receiver-administrator for these assets; organize the forced sale of such assets in conditions preserving the legitimate interests of their proprietors; annul, with respect to physical or juridical persons who have acquired the rights or assets in question by the effect of illegal transaction, the acts, decisions, resolutions, or deliberations of the directing organs of enterprises subject to a control which has been irregularly established.

The High Authority is also empowered to address to the interested member States the recommendations necessary to obtain, within the framework of national legislation, the execution of the measures provided for in the preceding paragraphs.

In the exercise of its powers, the High Authority shall take account of the rights of third persons which have been acquired in good faith.

6. The High Authority may impose fines not to exceed:

3 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons who shall have violated the obligations provided for in Section 4;

10 percent of the value of the assets acquired or regrouped, against physical or juridical persons which shall have violated the obligation provided for in Section 1; after the end of the twelfth month following the transaction, this maximum shall be raised by one-twenty-fourth per month which elapses until the High Authority establishes the existence of the violation;

10 percent of the value of the assets acquired or regrouped or to be acquired or regrouped, against physical or juridical persons which shall have obtained or attempted to obtain the benefit of the provisions of Section 2 by means of false or misleading information;

15 percent of the value of the assets acquired or regrouped, against enterprises subject to its jurisdiction which shall have participated in or lent themselves to the realization of transactions contrary to the provisions of the present article.

Persons who are the object of sanctions provided for in the present paragraph may appeal before the Court under the conditions provided for in Article 36.

7. To the extent necessary, the High Authority is empowered to address to public or private enterprises which, in law or in fact, have or acquire on the market for one of the products subject to its jurisdiction a dominant position which protects them from effective competition in a substantial part of the common market, any recommendations required to prevent the use of such position for purposes contrary to those of the present Treaty. If such recommendations are not fulfilled satisfactorily within a reasonable period, the High Authority will, by decisions taken in consultation with the interested government and under the sanctions provided for in Articles 58, 59 and 64, fix the prices and conditions of sale to be applied by the enterprise in question, or establish manufacturing or delivery programs to be executed by it.

Chapter VII—Impairment of the Conditions of Competition

ARTICLE 67

1. Any action of a member State which might have noticeable repercussions on the conditions of competition in the coal and steel industries shall be brought to the attention of the High Authority by the interested government.

2. If such an action is liable to provoke a serious disequilibrium by increasing the differentials in costs of production otherwise than through variations in productivity, the High Authority, after consulting the Consultative Committee and the Council, may take the following measures:

If the action of that State produces harmful effects for coal or steel enterprises coming under the jurisdiction of the State in question, the High Authority may authorize that State to grant to such enterprises assistance, the amount, conditions and duration of which shall be determined in agreement with the High Authority. The same provisions shall be applicable in case of a variation in wages and in working conditions which would have the same effects, even if such variation is not the result of a governmental act.

If the action of that State produces harmful effects for coal or steel enterprises subject to the jurisdiction of other member States, the High Authority may address a recommendation to the State in question with a view to remedying such effects by such measures as that State may deem most compatible with its own economic equilibrium.

3. If the action of the State in question reduces differentials in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel enterprises coming under its jurisdiction in comparison with the other industries in the same country, the High Authority is empowered to address the necessary recommendations to the State in question, after consulting the Consultative Committee and the Council.

Chapter VIII—Wages and Movement of Labor

ARTICLE 68

1. The methods of fixing wages and social benefits in force in the various member States shall not be affected, as regards the coal and steel industries, by the application of the present Treaty, subject to the following provisions.

2. If the High Authority notes that abnormally low prices practised by one or several enterprises are the result of wages fixed by these enterprises at an abnormally low level in comparison with the actual wage level in the same region, it shall make the necessary recommendations to the interested enterprises after consulting the Consultative Committee. If the abnormally low wages are the result of governmental decisions, the High Authority shall enter into consultation with the interested government; in the absence of agreement and after consulting the Consultative Committee; it may issue a recommendation to the government concerned.

3. If the High Authority finds that a lowering of wages is leading to a drop in the standard of living of the labor force and at the same time is being used as a means of permanent economic adjustment by enterprises or as a weapon of competition among enterprises, it shall address to the enterprise or government concerned, after consulting the Consultative Committee, a recommendation intended to assure the labor force of compensatory benefits to be paid for by the enterprise in question.

This provision shall not apply to:

(*a*) overall measures taken by a member State to re-establish its external equilibrium, without prejudice in this latter case to the possible application of the provisions of Article 67;

(*b*) wage decreases resulting from the application of the sliding scale legally or contractually established;

(*c*) wage decreases brought about by a decrease in the cost of living;

(*d*) wage decreases to correct abnormal increases previously granted under exceptional circumstances no longer in existence.

4. With the exception of the cases provided for in paragraphs (*a*) and (*b*) of the above section, any wage decrease affecting the whole labor force of an enterprise or a sizeable fraction thereof shall be reported to the High Authority.

5. The recommendations provided for in the above sections may be made by the High Authority only after consultation with the Council; such consultation shall not be necessary, however, in the case of recommendations addressed to enterprises smaller than a minimum size to be defined by the High Authority in agreement with the Council.

If, in one of the member States, a modification of the provisions relative to the financing of social security or of the measures for combatting unemployment and the effects thereof, or a variation in wages, produces the effects referred to in Article 67, Sections 2 and 3, the High Authority shall be empowered to apply the provisions of Article 67.

6. If an enterprise should fail to conform to a recommendation made to it by virtue of the present article, the High Authority may impose on it fines and daily penalty payments not to exceed twice the amount of the savings in labor costs unjustifiably effected.

ARTICLE 69

1. The member States bind themselves to renounce any restriction based on nationality against the employment in the coal and steel industries of workers of proven qualifications for such industries who possess the nationality of one of the member States; this commitment shall be subject to the limitations imposed by the fundamental needs of health and public order.

2. In order to apply these provisions, the member States will work out a common definition of specialties and conditions of qualification, and will determine by common agreement the limitations provided for in the preceding paragraph. They will also work out technical procedures to make it possible to bring together offers of and demands for employment in the Community as a whole.

3. In addition, for the categories of workers not falling within the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries might be hampered by a shortage of qualified labor, they will adapt their immigration regulations to the extent necessary to eliminate that situation; in particular, they will facilitate the reemployment of workers from the coal and steel industries of other member States.

4. They will prohibit any discrimination in remuneration and working conditions between national workers and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements necessary so that social security measures do not stand in the way of the movement of labor.

5. The High Authority shall guide and facilitate the application by the member States of the measures taken by virtue of the present article.

6. The present article shall not interfere with the international obligations of the member States.

Chapter IX—Transport

ARTICLE 70

It is recognized that the establishment of the common market requires the application of such transport rates for coal and steel as will make possible comparable price conditions to consumers in comparable positions.

For traffic among the member States, discriminations in transport rates and conditions of any kind, based on the country of origin or of destination of the products in question, are particularly forbidden. The suppression of these discriminations involves in particular the obligation to apply to the transport of coal and steel, originating in or destined for another country of the Community, the rate scales, prices and tariff provisions of all types applicable to internal transport of the same merchandise over the same route.

The rate scales, prices, and tariff provisions of all sorts applied to the transport of coal and steel within each member State and among the member States shall be published or brought to the knowledge of the High Authority.

The application of special internal tariff measures in the interest of one or several coal- or steel-producing enterprises is subject to the prior agreement of the High Authority, which will assure itself that such measures conform to the principles of the present Treaty; it may give a temporary or conditional agreement.

Subject to the provisions of the present article, as well as to the other provisions of the present Treaty, commercial policy for transport, particularly the establishment and modification of rates and conditions of transport of any type as well as the arrangement of transport costs required to assure the financial equilibrium of the transport enterprises themselves, remains subject to the legislative or regulatory provisions of each of the member States; the same is true for the measures of coordination or competition among different means of transport or among different routes.

Chapter X—Commercial Policy

ARTICLE 71

Unless otherwise stipulated in the present Treaty, the competence of the governments of the member States with respect to commercial policy shall not be affected by application of the present Treaty.

The powers granted to the Community by the present Treaty concerning commercial policy towards third countries shall not exceed the powers which the member States are free to exercise under the international agreements to which they are parties, subject to the application of the provisions of Article 75.

The governments of the member States will lend each other the necessary assistance in the application of measures recognized by the High Authority as in conformity with the present Treaty and with international agreements in effect. The High Authority may propose to the member States concerned the methods by which this mutual assistance shall be undertaken.

ARTICLE 72

Minimum rates, below which the member States are bound not to lower their customs duties on coal and steel with regard to third countries, and maximum rates, above which they are bound not to raise such duties, may be fixed by unanimous decision of the Council upon the proposal of the High Authority, which may act on its own initiative or at the request of a member State.

Between the limits fixed by the said decision, each government will set its tariffs according to its national procedure. The High Authority may, on its own initiative or at the request of one of the member States, issue an opinion suggesting the modification of the tariffs of such participating country.

ARTICLE 73

The administration of import and export licensing in relations with third countries shall be the responsibility of the government on the territory of which is located the point of origin for exports or the point of destination for imports.

The High Authority is empowered to supervise the administration and control of such licensing where coal and steel are concerned. After consulting the Council, it will address recommendations to the member States wherever necessary in order either to prevent the measures adopted from having a more restrictive character than is required by the situation justifying their establishment or maintenance, or to insure coordination of measures taken in compliance with the third paragraph of Article 71 and Article 74.

ARTICLE 74

In the cases enumerated below, the High Authority is empowered to take all measures in conformity with the present Treaty, in particular with the objectives defined in Article 3, and to make any recommendations to the governments which do not violate the provisions of the second paragraph of Article 71:

(1) if it is established that countries not members of the Community, or enterprises situated in such countries, are engaging in dumping operations or other practices condemned by the Havana Charter;[1]
(2) if a difference between the offers made by enterprises outside the jurisdiction of the Community and those made by enterprises within its jurisdiction is due exclusively to the fact that those of the former are based on competitive conditions contrary to the provisions of the present Treaty;
(3) if one of the products enumerated in Article 81 of the present Treaty is imported into the territory of one or several of the member States of the Community in relatively increased quantities and under such conditions that these imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

However, recommendations for the establishment of quantitive restrictions may be issued: in the case cited in paragraph (2) above, only with the concurrence of the Council; and in the case cited in paragraph (3) above, only under the conditions set forth in Article 58.

ARTICLE 75

The member States bind themselves to keep the High Authority informed of proposed commercial agreements or arrangements to the extent that such agreements relate to coal, steel or the importation of other raw materials and of specialized equipment necessary to the production of coal and steel in the member States.

If a proposed agreement or arrangement should contain clauses interfering with the application of the present Treaty, the High Authority will address the necessary recommendations to the interested State within a period of ten days from the receipt of the communication made to it; it may in any other case issue opinions.

Title Four—General Provisions

ARTICLE 76

Under the conditions set forth in an annexed Protocol,[2] the Community shall enjoy on the territory of the member States the privileges and immunities necessary to the exercise of its functions.

ARTICLE 77

The seat of the institutions of the Community shall be fixed by common agreement of the governments of the member States.

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[1] Draft charter of Mar. 24, 1948; *Havana Charter for an International Trade Organization and Final Act and Related Documents* (Department of State publication 3117; 1948); abridged text in *A Decade of American Foreign Policy*, pp. 391–409.

[2] Not reprinted here.

ARTICLE 78

1. The fiscal year of the Community shall extend from July 1 to June 30.

2. The administrative expenditures of the Community include the expenditures of the High Authority, including those pertaining to the functioning of the Consultative Committee, and those of the Court, of the Secretariat of the Assembly and of the Secretariat of the Council.

3. Each one of the institutions of the Community shall draw up an estimate of its administrative expenditures, broken down into articles and chapters.

However, the number of employees and the scales of salaries, allowances and pensions, to the extent that they are not fixed by virtue of another provision of the Treaty or an implementing regulation, as well as extraordinary expenditures, shall be determined in advance by a Commission composed of the President of the Court, the President of the High Authority, the President of the Assembly and the President of the Council. The President of the Court shall preside over this Commission.

The Commission of Presidents provided for in the preceding paragraph shall group the estimates of expenditures in a general estimate which will include a special section for the expenditures of each institution.

The adoption of this general estimate shall have the effect of authorizing and obligating the High Authority to collect the corresponding receipts in accordance with the provisions of Article 49. The High Authority shall place the funds estimated as required for the functioning of each of the institutions at the disposal of the President of that institution, who may proceed or give instructions to proceed with the commitment or the settlement of expenditures.

The Commission of Presidents may authorize transfers within chapters and from one chapter to another.

4. The general estimate shall be included in the annual report presented by the High Authority to the Assembly under the provisions of Article 17.

5. If the operations of the High Authority or of the Court make it necessary, the respective President may present to the Commission of Presidents a supplementary estimate, subject to the same rules as the general estimate.

6. The Council shall appoint an Auditor to serve for three years. His term may be renewed. He shall exercise his functions in complete independence. The Auditor may not hold any other post in any institution or agency of the Community.

The Auditor shall make an annual report on the regularity of the accounting operations and of the financial management of the various institutions. He shall make this report within six months following the end of the fiscal year to which the accounts pertain, and shall communicate it to the Commission of Presidents.

The High Authority shall transmit this report to the Assembly at the same time as the report provided for in Article 17 of the Treaty.

ARTICLE 79

The present Treaty is applicable to the European territories of the member States. It is also applicable to those European territories whose foreign relations are assumed by a member State; an exchange of letters between the government of the German Federal Republic and the government of the French Republic concerning the Saar is annexed to the present Treaty.[1]

Each High Contracting Party binds itself to extend to the other member States the preferential measures which it enjoys with respect to coal and steel in the non-European territories subject to its jurisdiction.

ARTICLE 80

The term enterprise, as used in the present Treaty, refers to any enterprise engaged in production in the field of coal and steel within the territories mentioned in the first paragraph of Article 79; and in addition, as concerns Articles 65 and 66 as well as information required for their application and appeals based upon them, to any enterprise or organization regularly engaged in distribution other than sale to domestic consumers or to artisan industries.

ARTICLE 81

The terms "coal" and "steel" are defined in Annex I to the present Treaty.

Additions may be made to the lists set forth in this annex by unanimous decision of the Council.

ARTICLE 82

The turnover which shall serve as basis for the calculation of the fines and daily penalty payments applicable to enterprises by virtue of the present Treaty shall be the turnover on the products subject to the jurisdiction of the High Authority.

ARTICLE 83

The establishment of the Community does not in any way prejudice the regime of ownership of the enterprises subject to the provisions of the present Treaty.

ARTICLE 84

In the provisions of the present Treaty, the words "present Treaty" shall be understood as referring to the clauses of the said Treaty and its annexes, of the annexed Protocols, and of the Convention containing the Transitional Provisions.

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[1] Not reprinted here.

ARTICLE 85

The initial and transitional measures agreed upon by the High Contracting Parties with a view to permitting the application of the provisions of the present Treaty are set forth in an annexed Convention.

ARTICLE 86

The member States bind themselves to take all general and specific measures which will assure the execution of their obligations under the decisions and recommendations of the institutions of the Community, and facilitate the accomplishment of the Community's purposes.

The member States bind themselves to refrain from any measures which are incompatible with the existence of the common market referred to in Articles 1 and 4.

To the extent of their competence, the member States will take all appropriate measures to assure the international payments arising out of trade in coal and steel within the common market; they will lend assistance to each other to facilitate such payments.

Officials of the High Authority charged with verifying information shall enjoy on the territories of the member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to officials of its own tax services. The missions and the status of the officials charged with them shall be duly communicated to the State in question. Officials of such State may, at the request of such State or of the High Authority, assist those of the High Authority in carrying out their mission.

ARTICLE 87

The High Contracting Parties agree not to avail themselves of any treaties, conventions or agreements existing among them to submit any difference arising out of the interpretation or application of the present Treaty to a method of settlement other than those provided for herein.

ARTICLE 88

If the High Authority deems that a State is delinquent with respect to one of the obligations incumbent upon it by virtue of the present Treaty, it will, after permitting the State in question to present its views, take note of the delinquency in a decision accompanied by a justification. It will allow the State in question a period of time within which to provide for the execution of its obligation.

Such State may appeal to the Court's plenary jurisdiction within a period of two months from the notification of the decision.

If the State has not taken steps for the fulfillment of its obligation within the period fixed by the High Authority, or if its appeal has been rejected, the High Authority may, with the concurrence of the Council acting by a ⅔ majority:

(*a*) suspend the payment of sums which the High Authority may owe to the State in question under the present Treaty;

(*b*) adopt measures or authorize the other member States to adopt measures involving an exception to the provisions of Article 4, so as to correct the effects of the delinquency in question.

An appeal to the Court's plenary jurisdiction may be brought against the decisions taken in application of paragraphs (*a*) and (*b*) within two months following their notification.

If these measures should prove inoperative, the High Authority will lay the matter before the Council.

ARTICLE 89

Any dispute among member States concerning the application of the present Treaty, which cannot be settled by another procedure provided for in the present Treaty, may be submitted to the Court at the request of one of the States parties to the dispute.

The Court shall also have jurisdiction to settle any dispute among member States related to the purpose of the present Treaty, if such dispute is submitted to it by virtue [of] an agreement to arbitrate.

ARTICLE 90

If an act committed by an enterprise in violation of the present Treaty also constitutes a violation of an obligation under the legislation of the State to which the enterprise in question is subject, and if legal or administrative action is instituted against the enterprise in question under such legislation, the State in question shall so inform the High Authority, which may suspend action in the premises.

If the High Authority suspends action, it shall be kept informed of the status of the proceedings and permitted to produce any pertinent documents, expert advice and evidence. It shall also be informed of the final decision taken in the case, and shall take account of this decision in determining any sanctions which it may be led to pronounce.

ARTICLE 91

If an enterprise does not make within the prescribed time-limit a payment for which it is liable to the High Authority either by virtue of a provision of the present Treaty or the agreements in application thereof or by virtue of a fine or a daily penalty payment imposed by the High Authority, the latter may suspend settlement of sums due by the High Authority to the said enterprise up to the amount of the payment in question.

ARTICLE 92

The decisions of the High Authority imposing financial obligations on enterprises are executory.

They shall be enforced on the territory of member States through the legal procedures in effect in each of these States, after the writ of execution in use in the State on the territory of which the decision is to be carried out has been placed upon them; this shall be done with no other formality than the certification of the authenticity of such decisions. The execution of these formalities shall be the responsibility of a Minister which each of the governments shall designate for this purpose.

Enforcement of such decisions can be suspended only by a decision of the Court.

ARTICLE 93

The High Authority will maintain whatever relationships appear useful with the United Nations and the Organization for European Economic Cooperation, and will keep these organizations regularly informed of the activity of the Community.

ARTICLE 94

The relations of the institutions of the Community with the Council of Europe will be assured under the terms of an annexed Protocol.

ARTICLE 95

In all cases not expressly provided for in the present Treaty in which a decision or a recommendation of the High Authority appears necessary to fulfill, in the operation of the common market for coal and steel and in accordance with the provisions of Article 5 above, one of the purposes of the Community as defined in Articles 2, 3 and 4, such decision or recommendation may be taken subject to the unanimous concurrence of the Council and after consultation with the Consultative Committee.

The same decision or recommendation, taken in the same manner, shall fix any sanctions to be applied.

If, following the expiration of the transition period provided for by the Convention containing the transitional provisions,[1] unforeseen difficulties which are brought out by experience in the means of application of the present Treaty, or a profound change in the economic or technical conditions which affects the common coal and steel market directly, should make necessary an adaptation of the rules concerning the exercise by the High Authority of the powers which are conferred upon it, appropriate modifications may be made provided that they do not modify the provisions of Articles 2, 3 and 4, or the relationship among the powers of the High Authority and the other institutions of the Community.

These modifications will be proposed jointly by the High Authority and the Council acting by a five-sixths majority. They shall then be submitted to the opinion of the Court. In its examination, the Court may look into all elements of law and fact. If the Court should recognize that they conform to the provisions of the preceding paragraph, such proposals shall be transmitted to the Assembly. They will enter into force if they are approved by the Assembly acting by a majority of three-quarters of the members present and voting comprising two-thirds of the total membership.

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[1] *Infra*, doc. 14.

ARTICLE 96

Following the expiration of the transition period, the government of each member State and the High Authority may propose amendments to the present Treaty. Such proposals will be submitted to the Council. If the Council, acting by a two-thirds majority, approves a conference of representatives of the governments of the member States, such a conference shall be immediately convoked by the President of the Council, with a view to agreeing on any modifications to be made in the provisions of the Treaty.

Such amendments will enter into force after having been ratified by all of the member States in conformity with their respective constitutional rules.

ARTICLE 97

The present Treaty is concluded for a period of fifty years from the date of its entry into force.

ARTICLE 98

Any European State may request to accede to the present Treaty. It shall address its request to the Council, which shall act by unanimous vote after having obtained the opinion of the High Authority. Also, by a unanimous vote, the Council shall fix the terms of accession. It shall become effective on the day the instrument of accession is received by the government acting as depository of the Treaty.

ARTICLE 99

The present Treaty shall be ratified by all the member States in accordance with their respective constitutional rules; the instruments of ratification shall be deposited with the Government of the French Republic.[1]

The Treaty shall enter into force on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have effected such deposit will consult among themselves on the measures to be taken.

ARTICLE 100

The present Treaty, drawn up in a single copy, shall be deposited in the archives of the Government of the French Republic, which shall transmit a certified copy thereof to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures and seals at the end of the present Treaty.

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[1] Instruments of ratification were deposited by the Netherlands, July 17, 1952; France, July 18, 1952; Belgium and Italy, July 22, 1952; and by the Federal Republic of Germany and Luxembourg, July 25, 1952.

DONE at Paris, the eighteenth of April one thousand nine hundred and fifty-one.

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Annex I – Definition of the Terms Coal and Steel[1] *(Not reprinted here.)*
Annex II – Scrap Iron[2] *(Not reprinted here.)*
Annex III – Special Steels[3] *(Not reprinted here.)*
Protocol on the Privileges and Immunities of the Community, April 18, 1951.[4] *(Not reprinted here.)*
Protocol on the Code of the Court of Justice, April 18, 1951.[5] *(Not reprinted here.)*

13. PROTOCOL CONCERNING RELATIONS WITH THE COUNCIL OF EUROPE, APRIL 18, 1951 [6]

The High Contracting Parties:

Fully aware of the need to establish ties as close as possible between the European Coal and Steel Community and the Council of Europe, particularly between the two Assemblies;

Taking note of the recommendations of the Council of Europe;[7]

Have agreed to the following provisions:

ARTICLE 1

The governments of the member States are invited to recommend to their respective Parliaments that the members of the Assembly, which these Parliaments are called upon to designate, should preferably be chosen from among the representatives of the Consultative Assembly of the Council of Europe.

ARTICLE 2

The Assembly of the Community will forward annually to the Consultative Assembly of the Council of Europe a report on its activity.

ARTICLE 3

The High Authority will communicate each year to the Committee of Ministers and to the Consultative Assembly of the Council of Europe the general report provided for in Article 17 of the Treaty.

ARTICLE 4

The High Authority will inform the Council of Europe of the action which it has been able to take on any recommendations which the

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 292–293.
[2] *Ibid.*, p. 294.
[3] *Ibid.*, p. 295.
[4] *Ibid.*, pp. 296–299.
[5] *Ibid.*, pp. 299–308.
[6] *Ibid.*, pp. 308–309.
[7] For Statute of Council of Europe, see *supra*, doc. 9.

Committee of Ministers of the Council of Europe might have addressed to it under Article 15 (*b*) of the Statute of the Council of Europe.

ARTICLE 5

The present Treaty and its Annexes will be registered with the General Secretariat of the Council of Europe.

ARTICLE 6

Agreements between the Community and the Council of Europe may, among other things, provide for any other type of mutual assistance and collaboration between the two organizations, and the appropriate forms thereof.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

. . . .

14. CONVENTION CONTAINING THE TRANSITIONAL PROVISIONS, APRIL 18, 1951[1]

The High Contracting Parties:

Desiring to establish the Convention containing the transitional provisions as provided for in Article 85 of the Treaty,

Have agreed to the following:

Purpose of the convention

SECTION 1

1. The purpose of the present Convention, drawn up in compliance with Article 85 of the Treaty, is to set forth the measures necessary for the creation of the common market and the progressive adaptation of production to the new conditions in which it will take place, in a way which will facilitate the removal of the disequilibria which resulted from previous conditions.

2. To this end, the Treaty will be placed in effect during two periods, to be known as the preparatory period and the transition period.

3. The preparatory period will extend from the date on which the Treaty goes into effect to the date on which the common market is created.

During this period:

(*a*) the institutions of the Community will be established and the relations among these institutions, the enterprises and their associations, and the associations of workers, consumers, and distributors will be organized in such a way as to place the operations of the Community on a basis of constant consultation and to establish a common viewpoint and mutual understanding among all the interested parties;

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 311–327.

(*b*) the action of the High Authority will involve:

(1) studies and consultations;

(2) negotiations with third countries.

The purpose of the studies and consultations is to permit the establishment of an overall view of the situation in the coal and steel industries of the Community and of the problems which this situation involves, through constant cooperation among the High Authority and the governments, the enterprises and their associations, the workers and the consumers and distributors; and to make possible the preparation of the concrete measures which must be taken to cope with those problems during the transition period.

The purpose of the negotiations with third countries is to establish bases of cooperation between the Community and such countries, and to obtain, prior to the elimination of customs duties and quantitative restrictions within the Community, the necessary exceptions to:

the most-favored-nation clause within the framework of the General Agreement on Tariffs and Trade and of bilateral agreements; and

the non-discrimination clause governing the liberalization of trade within the framework of the Organization for European Economic Cooperation.

4. The transition period shall begin on the date on which the common market is created and shall end at the expiration of a period of five years following the creation of the common market for coal.

5. The provisions of the Treaty shall be applicable as soon as the Treaty goes into effect under the provisions of Article 99, subject to the exceptions and without prejudice to the additional provisions contained in the present Convention for the purposes defined above.

Except where otherwise expressly provided in the present Convention, such exceptions and additional provisions shall cease to be applicable and the measures taken for their implementation shall cease to have effect upon expiration of the transition period.

PART ONE—IMPLEMENTATION OF THE TREATY

Chapter I—Establishment of the Institutions of the Community

SECTION 2—THE HIGH AUTHORITY

1. The High Authority shall assume its duties upon the designation of its members.[1]

2. In order to fulfill the mission which it is assigned by virtue of Section 1 of the present Convention, the High Authority shall immediately exercise the information and study functions conferred on it by the Treaty, in accordance with and using the powers specified in Articles 46, 47, 48 and 54, paragraph 3. As soon as the High Authority is established, the governments shall bring to its attention, in accordance with Article 67, any action likely to modify competitive conditions and, in accordance with Article 75, those clauses of trade agreements or of other agreements of analogous effect which pertain to coal and steel.

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[1] i.e., Aug. 10, 1952.

On the basis of the information received on equipment and on investment programs, the High Authority shall determine the date as of which the provisions of Article 54, other than those referred to in the preceding paragraph, shall be applicable as concerns both investment programs and projects under way on that date. The next to last paragraph of Article 54 shall not apply, however, to projects for which orders were placed prior to March 1, 1951.

Upon its establishment, the High Authority shall, in consultation with the governments, exercise to the extent necessary the powers provided in paragraph 3 of Article 59.

The High Authority shall not exercise the other functions bestowed upon it by the Treaty prior to the opening date of the transition period for each of the products in question.

3. On the dates specified above, the High Authority shall inform the member States that it is in a position to assume each of its functions. Until such notification, the corresponding powers shall continue to be exercised by the member States.

Nevertheless, subsequent to a date which the High Authority will fix upon its establishment, consultations will take place between the High Authority and any member State prior to any legislative or regulatory measures which such State might propose to take concerning matters with respect to which the High Authority has competence under the terms of the Treaty.

4. Without prejudice to the provisions of Article 67 concerning the effect of new measures, the High Authority will examine with the governments concerned the effect on the coal and steel industries of existing legislative and regulatory measures, particularly those which concern the fixing of prices of by-products outside the High Authority's jurisdiction, as well as of contractual social security systems to the extent that such systems have consequences equivalent to those of regulatory measures. If it finds that, by their own effect or by the discrepancies which they create between two or more member States, certain of these measures could seriously endanger competitive conditions in the coal and steel industries on the market of the countries in question, in the rest of the common market or on export markets, the High Authority shall, after consulting the Council, propose to the governments concerned any action which it deems necessary to correct such measures or to compensate for their effects.

5. In order that its action may repose on bases independent of the varying practices of enterprises, the High Authority shall, in cooperation with the governments, the enterprises and their associations, the workers and the consumers and distributors, seek a way to make comparable:

the price scales practised for different qualities of products based on the average price for such products, or for the successive stages of processing such products; and

the calculation of amortisation allowances.

6. During the preparatory period, the principal task of the High Authority shall be to enter into relations with the enterprises, their associations, and the associations of workers and of consumers and distributors, in order to acquire a concrete understanding of the over-all situation as well as of the individual situations in the Community.

With the aid of the information which it gathers concerning markets, supplies, production conditions of enterprises, living conditions of the workers and modernization and equipment programs, the High Authority will draw up in cooperation with all interested parties a general review of the situation of the Community in order to enlighten their common action.

The measures necessary to establish the common market and to facilitate the adaptation of production will be drawn up on the basis of these consultations and of this over-all understanding.

SECTION 3—THE COUNCIL

The Council will meet during the month following the establishment of the High Authority.

SECTION 4—THE CONSULTATIVE COMMITTEE

In order to establish the Consultative Committee in accordance with Article 18 of the Treaty, the governments shall forward to the High Authority upon its establishment all information on the situation of the producers', workers', and consumers' organizations for coal and for steel existing in each country; such information shall cover in particular the composition, the geographical scope, the statutes, the duties, and the role of these organizations.

On the basis of the information thus obtained and within two months following its establishment, the High Authority shall request the Council to designate the producers' and workers' organizations authorized to present candidates.

The Consultative Committee shall be set up within the month following this decision of the Council.

SECTION 5—THE COURT

The Court shall assume its duties upon designation of its members. Its first President shall be designated in the same manner as the President of the High Authority.

It shall establish its rules of procedure within a period of three months thereafter.

Appeals may be introduced before the Court only after the publication of these rules of procedure. The levying of daily penalty payments and the collection of fines shall be suspended until that date.

The periods of grace for the introduction of appeals shall run only from the same date.

SECTION 6—THE ASSEMBLY

The Assembly shall meet one month following the date of establishment of the High Authority to elect officers and draw up its rules of procedure. The first meeting of the Assembly shall be called by the President of the High Authority. Until its officers are elected, the Assembly shall be presided over by its eldest member.

The Assembly shall hold a second meeting five months after the date of establishment of the High Authority to hear a report on the overall situation in the Community, accompanied by the first general estimate of expenditures.

SECTION 7—ADMINISTRATIVE AND FINANCIAL MEASURES

1. The first fiscal year shall extend from the date of establishment of the High Authority to June 30 of the following year.

2. The levy provided in Article 50 of the Treaty may be collected as soon as the first general estimate of expenditures is prepared. As a transitional measure and to meet initial administrative expenses, member States shall make reimbursable advances without interest, allocated in proportion to their contributions to the Organization for European Economic Cooperation.

3. Until the Commission provided for in Article 78 of the Treaty has decided upon the number of employees and their status, the necessary personnel shall be hired on a contract basis.

Chapter II—Creation of the Common Market

SECTION 8

After the way has been prepared by the establishment of all the institutions of the Community, by general consultations among the High Authority, the governments, the enterprises and their associations, the workers and the consumers, and by the overall review of the situation in the Community derived from the information thus obtained, the common market will be created in accordance with the provisions of Article 4 of the Treaty.

These provisions shall enter into effect, without prejudice to the special measures provided in the present Convention:

(*a*) for coal, upon notification by the High Authority that the perequation measures provided in Part Three, Chapter II of the present Convention, have been placed in effect;

(*b*) for iron ore and scrap iron, on the same date as for coal;[1]

(*c*) for steel, two months after the date specified above.[2]

The perequation measures provided for coal under the provisions of Part Three of the present Convention shall be placed in effect within six months following the date the High Authority is established.

In case an additional period should be necessary, it shall be fixed by the Council upon the proposal of the High Authority.

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[1] The date of the establishment of the common markets for coal, iron ore, and scrap iron was Feb. 10, 1953.

[2] The date of the establishment of the common market for steel was May 1, 1953.

SECTION 9—ELIMINATION OF CUSTOMS DUTIES AND QUANTITATIVE RESTRICTIONS

Subject to the special measures provided in the present Convention, the member States shall eliminate all export and import duties or equivalent charges and all quantitative restrictions on the movement of coal and steel within the Community on the dates fixed for the creation of the common market for coal, iron ore and scrap iron and for steel, respectively, under the terms of Section 8 above.

SECTION 10—TRANSPORT

The High Authority shall immediately call into session a Commission made up of experts designated by the governments of the member States, which shall be charged with the study of measures relative to the transport of coal and steel. These measures shall be proposed to the governments in furtherance of the aims defined in Article 70 of the Treaty.

Without prejudice to the provisions of the last paragraph of Article 70, the negotiations required to obtain the agreement of the governments to the various measures proposed shall be undertaken upon the initiative of the High Authority. The High Authority shall also take the initiative in any negotiations which may prove necessary with interested third countries.

The measures to be studied by the Commission of experts are the following:

(1) elimination of discriminatory practices contrary to the provisions of paragraph 2 of Article 70;

(2) for transport within the Community, establishment of direct international rates which take into account total distance and are degressive in nature, yet do not prejudice the distribution of charges among the transport enterprises concerned;

(3) examination of the prices and conditions of transport of every nature applied for coal and steel in the case of the different methods of transport, in order to harmonize these prices and conditions within the Community to the extent necessary for efficient operation of the common market, taking account, among other elements, of the real cost of transport.

The Commission of experts must carry out its studies within the following time limits:

three months for the measures referred to in paragraph (1) above; and

two years for the measures referred to in paragraphs (2) and (3) above.

The measures referred to in paragraph (1) shall go into effect not later than the creation of the common market for coal.

The measures referred to in paragraphs (2) and (3) above shall go into effect simultaneously as soon as the agreement of the governments is obtained. In the event, however, that the governments of the member States fail to agree on the measures referred to in paragraph (3) above within two and a half years following the establishment of the High Authority, the measures referred to in paragraph (2) shall go into effect separately on a date fixed by the High Authority. In the latter case, the High Authority shall make, upon the proposal of the Commission of experts, such recommendations as it deems necessary to avoid serious disturbances in the field of transport.

The rate measures referred to in paragraph 4 of Article 70, which are in effect upon establishment of the High Authority, shall be brought to the attention of the High Authority, which shall grant the necessary time limits for their modification in order to avoid serious economic disturbances.

The Commission of experts shall seek and propose to the governments concerned the exception which the latter shall authorize the Luxembourg government to make to the measures and principles defined above in view of the special situation of the Luxembourg Railways.

After consulting the Commission of experts, the governments concerned shall authorize the Luxembourg government to continue to apply during the permanent period the solution adopted, to the extent required by this special situation.

Until an agreement on the measures referred to in the above paragraphs is reached among the governments concerned, the Luxembourg government is authorized to refrain from applying the principles set forth in Article 70 of the Treaty and in the present section.

SECTION 11—SUBSIDIES, DIRECT OR INDIRECT ASSISTANCE, SPECIAL CHARGES

Upon establishment of the High Authority, the governments of the member States shall notify the High Authority of any assistance and subsidies which are being granted to, or any special charges which are being imposed upon the operation of the coal and steel industries within their respective territories. Unless the High Authority agrees to the maintenance of such assistance, subsidies, or special charges and to the conditions to which such maintenance is subject, they shall be suspended on the dates and under the conditions fixed by the High Authority after consulting the Council, with the stipulation that such suspension shall not be obligatory prior to the opening date of the transition period for the products in question.

SECTION 12—AGREEMENTS AND MONOPOLISTIC ORGANIZATIONS

All information concerning agreements or monopolistic organizations covered by Article 65 shall be brought to the attention of the High Authority under the terms of Section 3 of that article.

In those cases where the High Authority does not grant the authorization provided in Section 2 of Article 65, it shall fix reasonable time limits at the expiration of which the prohibitions provided in Article 65 shall take effect.

In order to facilitate the liquidation of the organizations prohibited by virtue of Article 65, the High Authority may name liquidators which shall be responsible to it and shall act under its instructions.

With the assistance of such liquidators, the High Authority shall study the problems which arise and the steps which should be undertaken in order:

to assure the most economic distribution and use of the products, and particularly of the different varieties and qualities of coal;

to avoid, in case of reduced demand, cutbacks in production capacities which are necessary to the supply of the single market in normal periods or in time of economic prosperity, particularly in the case of coal installations;

to avoid an inequitable distribution among the workers of such reductions in employment as might result from reduced demand.

On the basis of these studies and in accordance with the missions assigned to it, the High Authority will establish any procedures or organizations permissible under the Treaty which it may deem appropriate to the solution of these problems in the exercise of its powers, in particular under Articles 53, 57, 58, and Chapter V of Title Three. The duration of such procedures or organizations will not be limited to the transition period.

SECTION 13

The provisions of Section 5 of Article 66 shall be applicable as soon as the Treaty enters into effect. In addition, they may be applied to concentration operations carried out between the date of signature of the Treaty and the date of its entry into force if the High Authority has proof that these operations were carried out in order to evade the application of Article 66.

Until the regulation specified in Section 1 of Article 66 has been issued, the operations referred to in Section 1 shall not obligatorily be subject to prior authorization. The High Authority shall not be obliged to issue a decision immediately on the requests for authorization submitted to it.

Until the regulation specified in Section 4 of Article 66 has been issued, the information referred to in that Section can be demanded only of enterprises subject to the jurisdiction of the High Authority under the terms of Article 47.

The regulations specified in Sections 1 and 4 of Article 66 shall be issued within four months of the establishment of the High Authority.

The High Authority shall gather from the governments, the associations of producers, and the enterprises all information necessary for the application of the provisions of Sections 2 and 7 of Article 66 concerning the situations existing in the various regions of the Community.

The provisions of Section 6 of Article 66 shall become applicable as the provisions which they respectively sanction enter into effect.

The provisions of Section 7 of Article 66 shall be applicable upon the date of creation of the common market under the terms of Section 8 of the Convention.

PART TWO—RELATIONS OF THE COMMUNITY WITH THIRD COUNTRIES

Chapter I—Negotiations With Third Countries

SECTION 14

Upon the establishment of the High Authority, the member States shall undertake negotiations with the governments of third countries, and particularly with the British Government, on overall economic and commercial relations concerning coal and steel between the Community and such countries.[1] The High Authority, acting upon instructions adopted unanimously by the Council, shall act for the member States as a group in these negotiations. Representatives of the member States may be present at these negotiations.

SECTION 15

In order to give the member States complete freedom to negotiate concessions on the part of third countries, particularly in exchange for a lowering of customs duties on steel in the direction of a harmonization with the least protective tariffs practised in the Community, the member States agree to the following provisions to take effect upon the creation of the common market for steel:

For imports from third countries which fall within quotas to be set in accordance with the fourth paragraph of this section on the basis of domestic consumption of the products in question, the Benelux countries will maintain the duties which they are applying at the time of the entry into force of the Treaty.

The Benelux countries shall subject imports which take place over and above this quota, and which are thus considered to be destined for trans-shipment to other countries of the Community, to duties equal to the lowest duty applied, within the framework of the Brussels Nomenclature of 1950, in the other member States upon the entry into force of the Treaty.

Such "tariff quotas" shall be established annually for each heading of the Benelux tariff code by the governments of the Benelux countries in agreement with the High Authority, subject to revision every three months; they shall take account of the evolution of requirements and of trade patterns. The first such quotas shall be fixed on the basis of average imports of the Benelux countries from third countries during an appropriate reference period, taking account, if necessary, of new production scheduled to supersede certain of such imports. Excess imports necessitated by unforeseen requirements shall immediately be reported to the High Authority, which may forbid them subject to the application of temporary controls on deliveries from Benelux countries to the other member States, if it should note a sizeable increase in these deliveries solely as a result of such surplus imports. Importers in the Benelux countries shall be entitled to obtain the lowest customs duty only if they agree not to re-export the products in question to the other countries of the Community.

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[1] An Agreement of Association between the United Kingdom and the European Coal and Steel Community was signed Dec. 21, 1954 (British Misc. No. 35 (1954), Cmd. 9346).

The obligation of the Benelux countries to establish a "tariff quota" shall be terminated as may be provided in the agreement concluded as a result of the negotiations with Great Britain, and in any case not later than the end of the transition period.

If, at the end of the transition period or upon earlier removal of the "tariff quota", the High Authority should recognize that one or more member States are justified in practising toward third countries customs duties higher than those which would result from a harmonization with the least protective tariffs applied in the Community, it may, under the conditions provided in Section 29, authorize these States themselves to apply the appropriate measures to assure, for their indirect imports through member States with lower tariffs, a protection equal to that which results from the application of their own tariff to their direct imports.

In order to facilitate the harmonization of customs duties, the Benelux countries agree to increase their present tariffs on steel within a maximum limit of two points to the extent deemed necessary by the High Authority in consultation with their governments. This obligation shall not become effective until the "tariff quota" referred to in the second, third, and fourth paragraphs of this Section shall be eliminated and until at least one of the member States bordering on the Benelux countries shall refrain from applying the equivalent mechanisms referred to in the immediately preceding paragraph.

SECTION 16

Except with the agreement of the High Authority, the obligation contracted by virtue of Article 72 of the Treaty shall prohibit the member States from binding through international agreements those customs duties in effect at the time of the entry into force of the Treaty.

Prior bindings resulting from bilateral or multilateral agreements shall be reported to the High Authority, which will examine whether their maintenance appears compatible with the efficient operation of the common organization, and, if necessary, may make such recommendations to the member States as may be necessary to remove these bindings according to the procedures specified in the agreements involved.

SECTION 17

Trade agreements which are to remain in effect for more than one year following the date of entry into force of the present Treaty, or which contain a clause providing for tacit renewal, shall be reported to the High Authority, which may address such recommendations to the member State concerned as may be necessary to bring the provisions of such agreements into conformity with Article 75 according to the procedures specified in such agreements.

Chapter II—Exports

SECTION 18

Until the provisions of the exchange regulations of the various member States which concern foreign exchange left at the disposal of exporters are made uniform, special measures must be applied in order that the elimination of customs duties and quantitative restrictions among member States shall not cause certain of these States to be deprived of the proceeds in the foreign exchange of third countries earned by the exports of their enterprises. In application of this principle, the member States agree to apply their own exchange regulations in such a way as to permit coal and steel exporters to utilize foreign exchange earnings only to the extent permitted under the exchange regulations of the member State on whose territory the product in question originated.

The High Authority shall be empowered to see to the application of such measures by addressing recommendations to the governments after consultation with the Council.

SECTION 19

If the High Authority should find that, by substituting re-exports for direct exports, the creation of the common market results in a shift in the pattern of trade with third countries which causes substantial harm to one of the member States, it may, at the request of the government concerned, require the producers in such State to insert a destination clause in their sales contracts.

Chapter III—Exception to the Most-Favored-Nation Clause

SECTION 20

With regard to those countries benefiting from the most-favored-nation clause through the application of Article 1 of the General Agreement on Tariffs and Trade, the member States shall take joint action towards the Contracting Parties to the above-mentioned Agreement in order to exempt the provisions of the present Treaty from the application of the article in question. If necessary, a special session of the Contracting Parties to the G.A.T.T. shall be requested for this purpose.

As concerns those countries which, while not parties to the General Agreement on Tariffs and Trade, nevertheless benefit from the most-favored-nation clause by virtue of bilateral agreements in effect, negotiations shall be undertaken upon the signature of the Treaty. In the absence of consent on the part of the interested countries, such commitments shall be modified or denounced in accordance with the terms thereof.

Should a country refuse its consent to the member States or to any one of them, the other member States agree to lend effective assistance, which may even extend to denunciation by all of the member States of the agreements concluded with the country in question.

Chapter IV—Liberalization of Trade

SECTION 21

The member States of the Community recognize that they constitute a special customs system in the sense of Article 5 of the Organization for European Economic Cooperation's Trade Liberalization Code as it stands on the date of signature of the Treaty. They therefore agree to make the necessary notification to the Organization.

Chapter V—Special Provision

SECTION 22

Without prejudice to the expiration of the transition period, coal and steel trade between the Federal Republic of Germany and the Russian Zone of Occupation shall be regulated by the Government of the Federal Republic in agreement with the High Authority.

PART THREE—GENERAL PRECAUTIONARY MEASURES

Chapter I—General Provisions

SECTION 23—READAPTATION

1. If the consequences of the establishment of the single market should oblige certain enterprises or parts of enterprises to cease or to modify their activity during the transition period defined in Section 1 of the present Convention, the High Authority, at the request of the interested governments and under the conditions specified below, shall furnish assistance in order to protect the workers from the burdens of readaptation and assure them a productive employment, and may grant non-reimbursable assistance to certain enterprises.

2. At the request of the interested governments and under the conditions defined in Article 46, the High Authority shall participate in a study of the possibilities of reemployment for unemployed workers either in existing enterprises or through the creation of new activities.

3. According to the procedure specified in Article 54, the High Authority shall facilitate the financing of approved programs submitted by the interested governments for the transformation of enterprises or for the creation, either in the industries coming under its jurisdiction or, with the concurrence of the Council, in any other industry, of new, economically sound activities capable of providing a productive employment for workers who have been released. Subject to the concurrence of the government concerned, the High Authority shall give preference in granting such facilities to the programs submitted by enterprises which have been obliged to cease their activity on account of the establishment of the common market.

4. The High Authority shall grant non-reimbursable assistance for the following purposes:

(*a*) to contribute, in case of total or partial closing of enterprises, to the payment of allowances to tide the workers over until they can find new employment;

(*b*) to contribute, by means of allotments to enterprises, to assuring the payment of their personnel in case of temporary unemployment necessitated by their change in activity;

(*c*) to contribute to the payment of allowances to workers for reinstallation expenses;

(*d*) to contribute to the financing of technical retraining for workers obliged to change employment.

5. The High Authority may also grant non-reimbursable assistance o enterprises obliged to cease their activity on account of establishment of the single market, provided that the sole and direct cause of this situation is the limitation of the single market to the coal and steel industries, and that this situation leads to a relative increase of production in other enterprises of the Community. Such assistance shall be limited to the amount necessary to enable the enterprises to meet payments which are due immediately.

Any request for such assistance shall be submitted by the enterprise concerned through the intermediary of its respective government. The High Authority shall have the right to refuse assistance to any enterprise which shall have failed to inform its government and the High Authority of the development of a situation which might lead it to cease or modify its activity.

6. The High Authority shall subject the granting of non-reimbursable assistance under the terms of paragraphs 4 and 5 above to the payment by the State concerned of a special contribution at least equal to the amount of such assistance, except where otherwise provided by a decision of the Council adopted by a two-thirds majority.

7. The methods of financing specified for the application of Article 56 apply to the present section.

8. Interested parties may benefit from the provisions of the present section during the two years following the expiration of the transition period upon decision of the High Authority taken with the concurrence of the Council.

Chapter II—Special Provisions for Coal

SECTION 24

It is recognized that precautionary mechanisms are necessary during the transition period to avoid sudden and harmful shifts in production. These precautionary mechanisms should take into account the situations existing at the time the common market is created.

Furthermore, if it should appear that harmful and abrupt price ncreases might occur in one or more regions, precautions should be taken to avoid such effects.

To cope with these problems during the transition period the High Authority shall where necessary authorize under its supervision:

(*a*) the application of the measures provided in Article 60, Section 2, subparagraph (*b*), as well as of zonal prices in cases not covered by the Chapter V of Title Three;

(*b*) the maintenance or establishment of national compensation funds or mechanisms, financed by a levy on the national production, without prejudice to the exceptional resources described below.

SECTION 25

The High Authority shall establish a perequation levy per ton of coal sold, which shall represent a uniform percentage of producers' receipts, on the coal production of those countries where average costs are less than the weighted average of the Community.

The ceiling on the perequation levy shall be 1.5% of such receipts during the first year of operation of the single market, and shall be reduced each year by 20% of the initial ceiling.

On the basis of such needs as it recognizes to exist under Sections 26 and 27 below and excluding the special charges which might arise from exports to third countries, the High Authority shall periodically fix the amount of the levy to be effectively imposed, and of the governmental subsidies to accompany it, in accordance with the following rules:

(1) within the limit of the ceiling defined above, it shall calculate the amount of the levy to be imposed in such a way that governmental subsidies actually paid shall be at least equal to the amount of the levy;

(2) it shall fix the maximum authorized amount of the governmental subsidies, on the understanding that:

the governments may grant subsidies up to this amount, but shall not be required to do so;

the assistance received from abroad can in no case exceed the amount of the subsidy actually paid.

Additional charges resulting from exports to third countries shall not enter into the calculation of the necessary perequation payments or into the appreciation of the subsidies to accompany this levy.

SECTION 26—BELGIUM

1. It is agreed that net Belgian coal production:

shall not have to bear an annual reduction of more than 3 percent as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than Belgian production during the preceding year diminished by 3 percent, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year.[1]

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[1] EXAMPLE.—In 1952—total production of the Community, 250 million tons; total Belgian production 30 million tons. In 1953—total production of the Community, 225 million tons. The coefficient of reduction is thus 0.9. Belgian production in 1953 should not be less than 30×0.97×0.9=26.19 million tons. 900,000 tons of this cut in production represents a permanent shift, and the balance, 2,910,000 tons, results from the economic situation. (Footnote in original)

The High Authority, responsible for the regular and stable supply of the Community, shall establish long-term forecasts of production and marketing and, after consulting the Consultative Committee and the Council, shall address to the Belgian Government recommendations setting forth the shifts in production it deems possible on the basis of such forecasts. This procedure shall continue as long as the Belgian market remains apart from the common market under the provisions of paragraph 3 below. With the agreement of the High Authority, the Belgian Government shall decide what steps are to be taken in order to bring about such production shifts within the limits specified above.

2. Perequation is designed, from the beginning of the transition period:

(*a*) to make it possible to lower the price of Belgian coal to all consumers of such coal in the common market to the vicinity of the forecast costs of production of such coal at the end of the transition period, with a view to bringing it as close as possible to the common market price. The price list established on this basis cannot be changed without the High Authority's approval.

(*b*) to insure that the Belgian steel industry shall not be prevented by the special system for Belgian coal from joining the common market for steel, and consequently to lower its prices to the level practised on this market.

The High Authority shall periodically fix the amount of the additional compensation for Belgian coal delivered to the Belgian steel industry which it deems necessary for the above purpose, taking into account all elements which affect the operations of this industry. In doing so, the High Authority shall ensure that such compensation does not have harmful effects on the steel industries of neighboring countries. Furthermore, in view of the provisions of sub-paragraph (*a*) above, such compensation should in no case lead to a reduction in the price of the coke used by the Belgian steel industry below the delivered price which it could obtain if it were supplied with Ruhr coke.

(*c*) to grant an additional compensation for such exports of Belgian coal within the common market as the High Authority may determine to be necessary in view of the outlook for production and requirements in the Community as a whole; such compensation shall correspond to 80 percent of the difference, determined by the High Authority, between the delivered price (F.O.B. plus transport) of Belgian coal and the delivered price of coal from other countries of the Community.

3. Notwithstanding the provisions of Section 9 of the present Convention, the Belgian Government may maintain or establish, under the control of the High Authority, mechanisms making possible the separation of the Belgian market from the common market.

Imports of coal from third countries shall be subject to the approval of the High Authority.

This special system shall be terminated as described below.

4. The Belgian Government agrees to eliminate the mechanisms described in paragraph 3 above not later than the expiration of the transition period. After consulting the Consultative Committee and with the concurrence of the Council, the High Authority may grant the Belgian Government not more than two additional one-year periods of grace, if it finds that exceptional circumstances not now foreseeable render such a step necessary.

The integration of the Belgian coal market into the common market thus provided shall take place following consultation between the Belgian Government and the High Authority, which shall jointly determine the means and procedures appropriate to achieve that end. Notwithstanding the provisions of sub-paragraph (*c*) of Article 4, these procedures may entail for the Belgian Government the possibility of granting subsidies corresponding to the additional operating expenses resulting from the nature of its coal deposits, taking account of the charges which might result from obvious disequilibria which might increase such expenses. The procedures for granting such subsidies and their size shall be subject to approval by the High Authority, which shall ensure that the amount of the subsidies and the tonnage subsidized are reduced as rapidly as possible, taking account of the facilities for readaptation and of the extension of the common market to products other than coal and steel, and preventing the displacements of production which might occur from provoking fundamental disturbances in the Belgian economy.

Every two years the High Authority shall submit to the Council for approval proposals relating to the tonnage likely to require subsidies.

SECTION 27—ITALY

1. The Sulcis mines shall be entitled to benefit from provisions of Section 25 above, in order that, pending completion of the investment operations now underway, these mines may be able to face competition within the common market. The High Authority shall periodically fix the amount of the necessary assistance; external aid shall not be granted for more than two years.

2. In view of the special position of the Italian coking plants, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on coke coming from the other member States during the transition period defined in Section 1 of the present Convention; during the first year of this period, these duties may not exceed those resulting from Presidential Decree No. 442 of July 7, 1950. This ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

SECTION 28—FRANCE

1. It is agreed that coal production in French mines:

shall not have to bear an annual reduction of more than 1 million tons as compared with the preceding year, if the total production of the Community is the same as or greater than that during the preceding year; or

shall not be less than production during the preceding year diminished by one million tons, the figure thus obtained being further reduced by the coefficient of reduction applicable to the total production of the Community as compared with the preceding year.

2. In order to assure that production shifts are maintained within the above limits, the procedures outlined in Section 24 may be reinforced by exceptional resources financed through a special levy imposed by the High Authority on the increase in net shipments from outside coal mines, based on French customs statistics, to the extent that such increase represents a shift in production.

For the establishment of this levy, there shall be taken into consideration the quantities representing net deliveries effected during each period in excess of those during 1950, to the extent that they are correlated with a decrease in the production of French mines as compared with 1950, the latter figure being reduced by the same coefficient of reduction as the total production of the Community. This special levy shall not exceed 10% of the producers' receipts from the deliveries in question; in agreement with the High Authority, the proceeds shall be used for lowering in the appropriate zones the price of certain types of coal produced by French mines.

Chapter III—Special Provisions for the Steel Industry

SECTION 29

1. It is recognized that special precautionary measures may be necessary for the steel industry during the transition period. The purpose of such measures shall be to prevent the production shifts which will result from the establishment of the common market from creating difficulties for enterprises which, after adaptation in accordance with Section 1 of the present Convention, would be in a position to meet competition, as well as from leading to the displacement of more workers than can benefit from the provisions of Section 23. To the extent that the High Authority deems that the provisions of the Treaty—in particular the provisions of Articles 57, 58 and 59 and Section 2 (*b*) of Article 60—cannot be applied, it shall have the power to resort to the procedures defined below in the order of preference in which they are listed:

(*a*) after consulting the Consultative Committee and the Council, the High Authority may limit directly or indirectly the net increase in shipments from one region to another in the common market;

(*b*) after consulting the Consultative Committee and with the concurrence of the Council both as to the appropriateness of these measures and as to their nature, the High Authority may make use of the means of intervention specified in Article 61, paragraph (*b*), even in the absence of the finding required by the said article that a manifest crisis exists or is imminent;

(*c*) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may establish a system of production quotas, without, however, interfering with production earmarked for export;

(*d*) after consulting the Consultative Committee and with the concurrence of the Council, the High Authority may authorize a member State to apply the measures provided in Section 15, paragraph 6, under the terms of the paragraph in question.

2. For the application of the above provisions, the High Authority shall, during the preparatory period defined in Section 1 of the present Convention and in consultation with the producers' associations, the Consultative Committee and the Council, fix the technical criteria for the application of the above-mentioned precautionary measures.

3. If the adaptation or the necessary transformations of production conditions cannot be carried out during a part of the transition period due to shortages, to an insufficiency in the financial resources which the enterprises are able to derive from their operation or which can be placed at their disposal, or to exceptional circumstances unforeseeable at this time, the High Authority, after consultation with the Consultative Committee and with the concurrence of the Council, may extend the provisions of the present Section beyond the expiration of the transition period for an additional period not to exceed the time during which the situation referred to above has lasted, or two years, whichever is less.

SECTION 30—ITALY

1. In view of the special position of the Italian steel industry, the High Authority is empowered to authorize the Italian Government, to the extent necessary, to maintain customs duties on steel products coming from other member States during the transition period defined in Section 1 of the present Convention. During the first year of the transition period, these duties may not exceed those resulting from the Annecy Convention of October 10, 1949.[1] The ceiling shall be reduced by 10% the second year, 25% the third year, 45% the fourth year, and 70% the fifth year, and these customs duties shall be eliminated entirely by the end of the transition period.

2. The prices practised by enterprises for steel sales on the Italian market, calculated on the basis of the point chosen for the establishment of each enterprise's price scale, shall not be less than the price listed in this scale for comparable transactions, except where authorized by the High Authority in agreement with the Italian Government, without prejudice to the provisions of the last paragraph of Section 2 (*b*) of Article 60.

SECTION 31—LUXEMBOURG

In applying the precautionary measures described in Section 29 of the present Chapter, the High Authority shall take account of the exceptional importance of the steel industry in the general economy of Luxembourg and the necessity of preventing serious disturbances in the special marketing conditions which result for the Luxembourg steel industry from the Belgian-Luxembourg Economic Union.

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[1] TIAS 2100; 64 Stat., pt. 3, p. B139.

In the absence of any other measures, the High Authority may, if necessary, use the funds which are at its disposal by virtue of Article 49 of the present Treaty within the limit of the possible repercussions on the Luxembourg steel industry of the measures provided in Section 26 of the present Convention.

DONE at Paris, the eighteenth of April, one thousand nine hundred and fifty-one.

. . . .

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15. AGREEMENT BETWEEN THE UNITED STATES AND THE EUROPEAN COAL AND STEEL COMMUNITY, APRIL 23, 1954 [1]

WHEREAS, the European Coal and Steel Community, established by Treaty dated April 18, 1951, was created with supranational powers in order to establish a common basis for economic development in Europe through the creation of a common market in coal and steel and thereby to establish a foundation for the unification of Europe; and

WHEREAS, the United States of America, recognizing that economic unification in Europe is a means of building strength, enhancing security, and preserving peace in the North Atlantic area, desires to assist the European Coal and Steel Community in its efforts to attain the objectives of the Community; and

WHEREAS, the attainment of the purposes of the European Coal and Steel Community requires at this time that additional capital resources from outside the Community be made available to the enterprises of the Community in order to modernize and expand facilities for the production of raw materials; and

WHEREAS, the High Authority of the European Coal and Steel Community has requested the extension of credit by the United States of America in order to provide additional capital resources, thereby enabling it to further the creation of a broad competitive market in coal and steel and to stimulate the revival of European capital markets; and

WHEREAS, the President of the United States of America has determined that it is necessary and appropriate in order to achieve the purposes of the Mutual Security Act of 1951,[2] as amended, to assist the High Authority of the European Coal and Steel Community to carry out the purposes of the Community by extending a loan to the High Authority from funds available under that Act;

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[1] Treaties and Other International Acts Series (TIAS) 2945; 5 UST 524–541.

[2] Act of Oct. 10, 1951; *infra*, pp. 3059–3086.

NOW, THEREFORE, the Government of the United States of America and the High Authority of the European Coal and Steel Community hereby agree as follows:

ARTICLE I

Establishment of Credit

There is hereby established in favor of the High Authority a credit of One Hundred Million Dollars ($100,000,000) against which Export-Import Bank of Washington (hereinafter referred to as "Eximbank"), acting as agent for the Government of the United States of America, will make advances from time to time, after the date of this Agreement and on or before June 30, 1955, in furtherance of the purposes expressed in the preamble of this Agreement and subject to the terms and conditions hereinafter stated, to enable the High Authority to make loans (hereinafter referred to as "project loans") to enterprises to which the High Authority is empowered to make loans under the Treaty. Such loans shall be made to assist such enterprises in financing investment projects initiated by them which are approved by the High Authority as urgently required for modernizing and expanding facilities for the production of raw materials in the Community, and which are considered by the High Authority to be consistent with the operation of a common market free from national barriers and private obstructions to competition.

For the purposes of the credit, such investment projects shall be limited to the following categories:

(a) Modernizing and mechanizing mining operations and expanding capacity for the production of coal and providing additional housing for miners.

(b) Modernizing and mechanizing mining operations and expanding capacity for the production of iron ore, modernizing facilities for the treatment of iron ore, and providing additional housing for miners.

(c) Modernizing operations and expanding capacity for the production of coke.

(d) Constructing and modernizing power stations at the pit heads to facilitate the use of low-grade coal to supply low-cost power for coal mining operations and for sale.

ARTICLE II

Advances Under the Credit

Not less than thirty days prior to the date on which the High Authority desires an advance under the credit, it shall notify Eximbank of its intention to request such advance, specifying the date of such advance and the amount thereof in terms of United States dollars. Such advance may be made in United States dollars or, at the option of Eximbank after consultation with the High Authority, in whole or in part in any currency other than United States dollars (hereinafter referred to as "foreign currency") which the Government of the United States of America will be able to supply to the High Authority on the date specified for the advance and which will be usable by the High Authority in making project loans. Each such amount of foreign currency shall thereupon become a constituent of the proposed advance as hereinafter provided.

Not less than two days prior to the date specified for the advance, the High Authority may present to Eximbank its request for an advance under the credit in a total amount of United States dollars equal to the amount specified as provided above. Each such request shall be accompanied by the following in form and substance satisfactory to Eximbank:

(a) The promissory note of the High Authority conforming to the provisions of Article III (hereinafter referred to as the "Dollar Payment Note") in a principal amount determined by subtracting from the United States dollar amount of the advance the aggregate principal United States dollar amount of any notes which the High Authority is required to submit with such request under the provisions of the next succeeding subparagraph.

(b) With respect to each amount of foreign currency which has become a constituent of the advance as provided above, a promissory note of the High Authority conforming to the provisions of Article IV (hereinafter referred to as an "Optional Payment Note") in a principal amount determined by converting the amount of such foreign currency into United States dollars as of the date of preparing such request at the rate of exchange specified in Article V.

(c) A statement signed by a duly authorized official of the High Authority designating by name and amount the bank or banks in which the High Authority desires to have deposited to its credit the United States dollars constituting the proceeds of the Dollar Payment Note and designating the bank in which the High Authority desires to have deposited to its credit the foreign currency constituting the proceeds of each Optional Payment Note.

(d) With respect to each Optional Payment Note, a statement signed by a duly authorized official of the High Authority authorizing Eximbank to insert in such note the rate of exchange at which Eximbank has advanced the foreign currency in which such note is optionally payable.

On the date specified for the advance, Eximbank will deposit or cause to be deposited to the credit of the High Authority, in accordance with the aforesaid designation, an aggregate amount of United States dollars equal to the principal amount of the Dollar Payment Note and an amount of foreign currency equal to the principal amount in United States dollars of each Optional Payment Note converted on said date into the foreign currency in which it is optionally payable at the rate of exchange specified in Article V.

The United States dollars so deposited to the credit of the High

Authority shall be disbursed by the High Authority, whether by conversion into foreign currency or otherwise, only when and to the extent that Eximbank has received a statement or statements signed by a duly authorized official of the High Authority setting out (1) that the High Authority has received from one or more governments undertakings in writing that United States dollar exchange will be made available to it at the times and in the amounts necessary to permit a prompt and full payment of each installment of principal and interest on the Dollar Payment Note; and (2) that each such statement contains an acknowledgment of the government giving the same that it is given for the benefit of Eximbank and for the purpose of inducing Eximbank to advance United States dollars to the High Authority. A copy of each such undertaking shall forthwith be transmitted to Eximbank.

ARTICLE III

Dollar Payment Notes

Each Dollar Payment Note given to evidence an advance under the credit shall be a general obligation of the High Authority pledging its full faith and credit for the payment of the principal thereof and interest thereon in accordance with its terms.

Each such note shall be dated as of its date of issue; shall be in the amount determined as provided in Article II (a); shall be payable to the order of Eximbank or its nominee or nominees at the office of Eximbank in Washington, D. C. or at such other place as Eximbank may designate; and shall be payable, both as to principal and interest, in lawful money of the United States.

The principal of each note shall be due and payable in twenty-two annual installments on the dates and in the percentages of such principal amount set forth below:

Date	*Percentage of Principal*
May 1, 1958	2. 9
May 1, 1959	3. 1
May 1, 1960	3. 2
May 1, 1961	3. 3
May 1, 1962	3. 4
May 1, 1963	3. 6
May 1, 1964	3. 7
May 1, 1965	3. 9
May 1, 1966	4. 0
May 1, 1967	4. 2
May 1, 1968	4. 3
May 1, 1969	4. 5
May 1, 1970	4. 7
May 1, 1971	4. 9
May 1, 1972	5. 0
May 1, 1973	5. 2
May 1, 1974	5. 4
May 1, 1975	5. 7
May 1, 1976	5. 9
May 1, 1977	6. 1
May 1, 1978	6. 4
May 1, 1979	6. 6

Each such note shall bear interest from its date of issue at the rate of three and seven-eighths' per cent (3⅞%) per annum on the unpaid principal balance thereof from time to time outstanding, such interest to be computed on the basis of the actual number of days using a factor of 365 days and to be due and payable on May 1 of each year; it being understood, however, that an appropriate adjustment will be effected with respect to interest accrued between the date of each such note and the date of its purchase hereunder.

Each such note shall be in the English language; shall be satisfactory in form and substance to Eximbank; and shall be substantially in the form of Exhibit A annexed hereto and made a part hereof.[1]

ARTICLE IV

Optional Payment Notes

Each Optional Payment Note given to evidence an advance under the credit shall be a general obligation of the High Authority pledging its full faith and credit for the payment of the principal thereof and interest thereon in accordance with its terms.

Each such note shall be dated as of its date of issue; shall be in the amount determined as provided in Article II (b); shall be payable to the order of Eximbank or its nominee or nominees at the office of Eximbank in Washington, D. C., or at such other place as Eximbank may designate; and shall be payable, both as to principal and interest, in lawful money of the United States or, at the option of the maker, in whole or in part in the foreign currency advanced against such note at the rate of exchange at which such foreign currency was advanced.

The principal and interest of each such note shall be due and payable and each such note shall bear interest as provided with respect to Dollar Payment Notes in Article III.

Each such note shall be in the English language; shall be satisfactory in form and substance to Eximbank; and shall be substantially in the form of Exhibit B annexed hereto and made a part hereof.[1]

ARTICLE V

Rates of Exchange

For the purposes of this Agreement, the rate of exchange between United States dollars and any foreign currency on any date specified herein shall be the ratio of the par values of such currencies on that date as agreed with the International Monetary Fund or, if such par values are not then agreed, the most favorable rate at which the Government of the United States of America is then purchasing its requirements of that currency.

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[1] Not reprinted here.

ARTICLE VI

Prepayment of Promissory Notes

The High Authority hereby reserves the right to prepay at any time and from time to time, without penalty or premium, all or any part of the principal of any or all promissory notes issued hereunder by payment of the principal amount so prepaid with interest thereon to the date of prepayment. Each such prepayment shall be accompanied by instructions specifying the note or notes to which such prepayment is to be applied and the amount to be applied to each such note. Such prepayment shall thereupon be applied pro rata to the installments of principal on such note or notes in accordance with such specification.

ARTICLE VII

Covenants of the High Authority

Without in any way limiting the general liability of the High Authority under other provisions of this Agreement and as the maker of the promissory notes given to evidence advances under the credit, the High Authority hereby covenants that, until all such advances and interest thereon have been paid in full:

(a) The High Authority will adhere to and carry out the policies which it has established in connection with the use of its credit to assist the enterprises of the Community in obtaining capital for their investment needs as set forth in the letter addressed by the High Authority to Eximbank, a copy of which is annexed hereto as Exhibit C.[1]

(b) The High Authority will maintain and collect levies, as provided in the Treaty, on the production of coal and steel by enterprises within the jurisdiction of the Community, sufficient to provide, in addition to any other payments to be made therefrom, for any payment of such advances and interest thereon which cannot be promptly and fully paid from the receipts of the High Authority from project loans made with the proceeds of such advances, or promptly and fully paid from its other funds; and the High Authority will apply such levies, to the extent required, to the payment of such advances and interest thereon.

(c) Each project loan will include such terms as the High Authority shall deem to be most in its interest and, if not secured by a mortgage or other lien upon the project, will include a commitment by the enterprise not to create any mortgage or other lien thereon (except that the High Authority may, in particular cases, authorize the enterprise to give a prior lien to the supplier of equipment to secure deferred payment of part of the purchase price), unless the project loan shall be secured thereby equally and ratably with all other indebtedness secured by such mortgage or lien.

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[1] Not reprinted here.

(d) The High Authority will retain all obligations representing project loans and any security therefor, and all undertakings received under the last paragraph of Article II, in a separate portfolio (at all times free of any mortgage, pledge or other priority, except as stated below) dedicated to the payment of the installments of principal and interest becoming due on the promissory notes given to evidence advances under the credit. The High Authority will pledge and hold in trust for the benefit of Eximbank all obligations and any security therefor and the above mentioned undertakings which are from time to time in the special portfolio; and it will take such action as may be necessary under the laws of any member country of the Community to give effect to the provisions of this subparagraph (d), and to make such pledge and the trusteeship of such obligations and security therefor and such undertakings effective against claims of third parties.

Such pledge and trusteeship shall not require the High Authority to apply the payments of principal or interest received by it on such obligations, whether received by prepayment or in due course or through the enforcement of any security, to the payment of the promissory notes issued hereunder; and shall not prevent the withdrawal of any or all of such obligations, together with any security for the obligations so withdrawn, for the purpose of sale in the currency in which such obligations are payable; provided, however, that such payments and the proceeds of such sales shall be made subject forthwith to such pledge and trusteeship, and shall not be converted into any other currency (without obtaining from the appropriate national government further undertakings of the nature specified in the last paragraph of Article II) except for the purpose of making payments on the promissory notes issued hereunder, and may be used by the High Authority only for such purpose or for making additional project loans. In the latter event, any and all obligations and any security therefor given to or for the benefit of the High Authority by any enterprise receiving such a project loan shall likewise be made subject forthwith to such pledge and trusteeship.

Such pledge and trusteeship shall not prevent the withdrawal of any or all of such obligations, together with any security for the obligations so withdrawn, for the purpose of exchanging such obligations for other obligations of the same enterprise payable in the same currency; provided, however, that any and all obligations and any security therefor given to or for the benefit of the High Authority by any enterprise making such exchange shall be made subject forthwith to such pledge and trusteeship.

Upon the withdrawal of any obligations and any security therefor under the provisions of either of the two preceding paragraphs, the title to such obligations and security shall be deemed to be released fully and completely from such pledge and trusteeship and such release may be evidenced by the execution and delivery of such documents or by taking such action with respect to such obligations and security as may be appropriate for that purpose.

Upon payment in full of any project loan, the obligations representing such loan and any security therefor shall, on the initiative of the High Authority, be cancelled and discharged.

(e) It is recognized that the High Authority may hereafter deem it advisable to borrow additional funds for the purpose of making loans to enterprises as contemplated by the Treaty to assist them in financing their capital requirements.

The High Authority and the United States of America will proceed without delay to study together the steps to be taken to enlarge the separate portfolio and the pledge and trusteeship provided for in subparagraph (d) so as to include both (1) the obligations and any security therefor and all undertakings required by the last paragraph of Article II received by the High Authority in connection with project loans under this Agreement and (2) the obligations and any security therefor and all undertakings of the nature specified in the last paragraph of Article II received by it in connection with loans made to enterprises with the proceeds of all additional borrowings of the High Authority, and so that the enlarged pledge and trusteeship shall be for the equal pro rata benefit of all lenders to the High Authority. If, as a result of such study, it is mutually determined that such enlargement is advisable, the High Authority and the United States of America will enter into an agreement supplemental to this Agreement containing provisions appropriate for the creation of such common pledge and trusteeship.

Pending the execution of such supplemental agreement, the High Authority undertakes that it will not grant to any other lender in connection with any subsequent loan to the High Authority more favorable terms with respect to the matters referred to in subparagraphs (c) and (d) above than are set forth in said subparagraphs for the benefit of Eximbank. In making loans to enterprises with the proceeds of the credit and the proceeds of any other borrowing or borrowings by the High Authority, it will follow the policy set forth in the letter addressed by the High Authority to Eximbank, a copy of which is annexed hereto as Exhibit D.[1]

ARTICLE VIII

Non-discriminatory Purchasing

The High Authority will use its best efforts with the governments of the member countries of the Community to assure that recipients of project loans made out of the proceeds of advances under the credit shall not, in using such loans, be prevented by exchange or other restrictions from purchasing goods or services from sources most advantageous to them on the basis of commercial considerations.

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[1] Not reprinted here.

ARTICLE IX

Consultation and Reports

Full opportunity shall be afforded to accredited representatives of the Government of the United States of America to consult with the High Authority concerning matters of mutual interest in connection with this Agreement.

The High Authority will keep Eximbank fully informed with regard to its general financial situation, the use of advances under the credit, matters affecting the service of the credit, and such other matters as Eximbank may from time to time reasonably request.

The High Authority and Eximbank will determine by consultation from time to time the scope and manner of reporting the foregoing information as may be required by Eximbank to carry out its responsibilities hereunder and as may be required by the applicable legislation pursuant to which the funds are made available under the credit.

ARTICLE X

Default

The entire principal of all promissory notes issued hereunder and accrued interest thereon shall become due and payable, on demand of Eximbank, upon the occurrence of any of the following events:

(a) A default in the prompt and full payment of any installment of principal or interest on any such note, or upon any other indebtedness of the High Authority incurred for borrowed money, which shall not be cured by payment thereof within thirty days of the due date; or
(b) A material breach of any covenant contained in Article VII which shall not be cured within ninety days after notice thereof from Eximbank to the High Authority; or
(c) The Treaty shall be modified in a manner adversely affecting the capacity of the High Authority to perform its obligations under this Agreement.

Notwithstanding anything to the contrary contained in this Agreement, upon demand by Eximbank under this Article X, the High Authority, if unable to make full and immediate payment of such principal and interest, shall forthwith endorse and transfer to Eximbank or to any nominee or nominees of Eximbank any or all of the obligations and any security therefor given to or for the benefit of the High Authority by any enterprise as aforesaid, together with the undertakings relating thereto received pursuant to the last paragraph of Article II, or the High Authority will, without cost to Eximbank, take such action as may be necessary to effect the collection of such obligations through the enforcement of any security therefor or otherwise and will apply the proceeds thereof forthwith to the payment of the promissory notes issued hereunder.

No rights of the Government of the United States of America under this Agreement or under any promissory note issued hereunder shall be waived, or otherwise impaired, by reason of the election by such Government to exercise the right given to it in the preceding paragraph; or by reason of the failure of such Government to make demand under this Article X; or by reason of its failure to exercise any other rights under this Agreement or under any promissory note issued hereunder.

ARTICLE XI

Commitment Fee

The High Authority shall pay to Eximbank a commitment fee at the rate of one-half of one per cent (½ of 1%) per annum on the principal amount of the credit which has not been advanced prior to January 1, 1955, and which may remain undisbursed from time to time thereafter. Such fee shall be computed on the basis of the actual number of days using a factor of 365 days and shall be payable in lawful money of the United States on January 31, 1955, and on the last day of each month thereafter.

ARTICLE XII

Taxes

The principal of the promissory notes issued hereunder and the interest thereon shall be payable without deduction for any present or future taxes, duties, fees or other charges levied or imposed thereon or on said promissory notes or the holders thereof by or within any member country of the Community or any political or taxing subdivision of any such member country.

ARTICLE XIII

Legal Opinion and Other Documents

Prior to and as a condition of the first advance under the credit, Eximbank shall be furnished with the following:

(a) An opinion or opinions of the chief legal officer of the High Authority or other counsel satisfactory to Eximbank demonstrating to the satisfaction of Eximbank (1) that this Agreement has been validly signed and entered into by the High Authority and is binding upon it in accordance with its terms and (2) that the promissory notes, when and as signed and issued pursuant hereto, will constitute the valid and binding obligations of the High Authority in accordance with their terms. Such opinion or opinions shall be supported by such reference to treaties, constitutional and statutory provisions, special acts, decrees, regulations, resolutions and other records of action of governing bodies, powers of attorney and other documents as may be appropriate in the premises and shall be accompanied by certified copies of such of the foregoing as Eximbank may reasonably request.

(b) Evidence of the authority (1) of the person or persons who will date and sign the promissory notes to be issued hereunder and act as the representative or representatives of the High Authority in connection with the signature of this Agreement and the operation of the credit established hereby; and (2) of the person or persons who will sign and approve the statements, certificates, reports and other documents to be furnished to Eximbank hereunder; together with the authenticated specimen signature in duplicate of each such person.

From time to time thereafter, Eximbank shall be furnished with such additional opinions of the chief legal officer of the High Authority or other counsel and such additional evidences of authority, authenticated specimen signatures, documents and other information as it may reasonably request.

Done in duplicate at Washington this 23d day of April, 1954.

. . . .

The European Defense Community

16. TREATY, MAY 27, 1952 [1]

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Resolved to contribute to the maintenance of peace, particularly by ensuring the defense of Western Europe against any aggression, in cooperation with the free nations, in the spirit of the United Nations Charter, and in close liaison with organizations having the same purpose;

Considering that as complete an integration as possible, compatible with military requirements, of the human and material elements gathered in their Defense Forces within a supranational

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 167–206. See also *Treaty Establishing the European Defense Community and Related Protocols* (Office of the U. S. Special Representative in Europe, Paris, Jan. 26, 1953) for a later, unofficial translation of the original French text; and *The European Defence Community Treaty, Paris, May 27, 1952* (Cmd. 9127). The treaty was ratified by Belgium, the Federal Republic of Germany, Luxembourg, and the Netherlands but did not enter into force.

European organization is the most appropriate means of reaching this goal with all the necessary rapidity and effectiveness;

Certain that such integration will result in the most rational and economic utilization of the resources of their countries, as a result, particularly, of the establishment of a common budget and of common armament programs;

Determined to ensure in this way the development of their military power without prejudicing social progress;

Desirous to safeguard the spiritual and moral values which are the common heritage of their peoples, and convinced that within a common army constituted without discrimination among the participating States national patriotisms, far from being weakened, can only become consolidated and reconciled in a broader framework;

Conscious that they are thus taking a new and essential step on the road to the formation of a united Europe;

Have decided to create a European Defense Community and to this end have designated as plenipotentiaries:

. . . .

Who, after having exchanged their full powers and found them in good and due form, have agreed upon the provisions which follow.

TITLE I—FUNDAMENTAL PRINCIPLES

Chapter I—The European Defense Community

ARTICLE 1

By the present Treaty the High Contracting Parties institute among themselves a European Defense Community, supranational in character, consisting of common institutions, common armed Forces and a common budget.

ARTICLE 2

1. The objectives of the Community shall be exclusively defensive.
2. Consequently, under the conditions provided for in the present Treaty, it shall ensure the security of the member States against any aggression by participating in Western Defense within the framework of the North Atlantic Treaty[1] and by accomplishing the integration of the defense forces of the member States and the rational and economic utilization of their resources.
3. Any armed aggression directed against any one of the member States in Europe or against the European Defense Forces shall be considered as an attack directed against all of the member States.

   The member States and the European Defense Forces shall furnish to the State or Forces thus attacked all military and other aid and assistance in their power.

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[1] Treaty of Apr. 4, 1949; *supra*, pp. 812–815.

ARTICLE 3

1. The Community shall accomplish the goals assigned to it by employing the least burdensome and most efficient methods. It shall intervene only to the extent necessary for the fulfillment of its mission and with due respect to public liberties and the fundamental rights of the individual. It shall see to it that the proper interests of member States are taken into consideration to the full extent compatible with its own essential interests.

2. In order to enable the Community to accomplish its mission, the member States shall place at its disposal appropriate contributions determined under the provisions of Articles 87 and 94 below.

ARTICLE 4

The Community shall pursue its action in cooperation with the free nations and with all organizations whose goals are the same as that of the Community.

ARTICLE 5

The Community shall cooperate closely with the North Atlantic Treaty Organization.

ARTICLE 6

The present Treaty does not involve any discrimination among the member States.

ARTICLE 7

The Community shall have juridical personality.

In its international relations, the Community shall enjoy the juridical capacity necessary to the exercise of its functions and the attainment of its ends.

In each of the member States, the Community shall enjoy the most extensive juridical capacity with which legal entities of the nationality of the country in question are endowed. Specifically, it may acquire and transfer real and personal property, and may sue and be sued in its own name.

The Community shall be represented by its institutions, each one of them acting within the framework of its own powers and responsibilities.

ARTICLE 8

1. The institutions of the Community shall be:
   - —A Council of Ministers, hereinafter called the Council.
   - —A Common Assembly, hereinafter called the Assembly.
   - —A Commissariat of the European Defense Community, hereinafter called the Commissariat.
   - —A Court of Justice, hereinafter called the Court.

2. Without prejudice to the provisions of Article 125 below, the structure of these institutions as established by the present Treaty shall remain in effect until it is replaced by a new one, resulting from the establishment of a federal or confederal organization as provided in Article 38 below.

Chapter II—The European Defense Forces

ARTICLE 9

The Armed Forces of the Community, hereinafter called "European Defense Forces" shall be composed of contingents placed at the disposal of the Community by the member States with a view to their fusion under the conditions provided for in the present Treaty.

No member State shall recruit or maintain national armed forces aside from those provided for in Article 10 below.

ARTICLE 10

1. The member States may recruit and maintain national armed forces intended for use in the non-European territories with respect to which they assume defense responsibilities, as well as units stationed in their countries which are required for the maintenance of these forces and for their relief.

2. The member States may also recruit and maintain national armed forces required for international missions assumed by them in Berlin, in Austria or by virtue of a decision of the United Nations. At the termination of these missions, these troops shall be either disbanded or placed at the disposal of the Community. Relief for these troops may be effected, with the consent of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, by exchange with units composed of contingents originating from the member States in question which belong to the European Defense Forces.

3. In each member State elements intended as a bodyguard for the Chief of State shall remain national.

4. The member States may dispose of national naval Forces, on the one hand for the protection of non-European territories for which they assume defense responsibilities as mentioned in Section 1 of this Article and for the protection of communications with and among such territories, and on the other hand to fulfill the obligations falling to them as a result of assumption by them of international missions mentioned in Section 2 of this Article or as a result of agreements entered into within the framework of the North Atlantic Treaty prior to the entry into effect of the present Treaty.

5. The total volume of national armed forces provided for in this Article, including support units, shall not be so great as to compromise the participation of each member State in the European Defense Forces as determined by agreement among the Governments of the member States.

The Member States shall have the right to exchange individual personnel between the contingents placed by them at the disposal of the European Defense Forces and the forces which are not a part thereof, provided no diminution in the European Defense Forces occurs as a result.

ARTICLE 11

Police forces and forces of gendarmerie, suitable exclusively for the maintenance of internal order, may be recruited and maintained on the territories of the member States.

The national character of these forces is not affected by the present Treaty.

The volume and nature of such forces existing on the territories of member States shall be such as not to exceed the limits imposed by their mission.

ARTICLE 12

1. In case of disturbances or threatened disturbances within the territory of a member State in Europe, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the situation shall, on its request, the Council having been informed, be placed at its disposal by the Commissariat.

The conditions under which these elements may be employed shall be determined by the legislation in force in the territory of the member State making the request.

2. In case of disaster or calamity requiring immediate aid, elements of the European Defense Forces, which are in a position to be of use, shall give their aid without regard to their national origins.

ARTICLE 13

In case of a serious emergency affecting a non-European territory for which a member State assumes responsibilities of defense, such part of the contingents supplied by such State to the European Defense Forces as is necessary to meet the emergency shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat, the Council having been informed. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed to deal with the emergency.

The military, economic and financial implications of the withdrawal of contingents provided for in this Article shall, in each case, be examined and settled by the Commissariat with the concurrence of the Council given by a two-thirds majority vote.

ARTICLE 14

In case an international mission to be accomplished outside the territory defined in Section 1, Article 120, is entrusted to a member State, such part of the contingents supplied by such State to the European Defense Forces as is necessary to accomplish the mission shall, on its request and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be placed at its disposal by the Commissariat with the concurrence of the Council given by two-thirds majority vote. The contingents thus released shall cease to be subject to the authority of the Community until such time as they are once again placed at its disposal when they are no longer needed for the accomplishment of a mission herein provided for.

The provisions of the second paragraph of Article 13 above shall be applicable.

ARTICLE 15

1. The European Defense Forces shall consist of conscripted personnel and of professional personnel serving for a long term by voluntary enlistment.

2. The European Defense Forces shall be integrated in accordance with the organic provisions of Article 68, 69 and 70 below.

They shall wear a common uniform.

They shall be organized according to types defined in the Military Protocol.[1] Such organization may be modified by unanimous decision of the Council.

3. The contingents destined to make up the units of the European Defense Forces shall be furnished by the member States in accordance with a plan to be established by agreement among the Governments concerned. This plan may be revised in accordance with the provisions of Article 44 below.

ARTICLE 16

The internal defense of the territories of the member States against attacks of any nature having military ends and provoked or carried out by an external enemy shall be ensured by homogeneous formations of European status, which shall be specialized in each country in accordance with the particular defense mission required by its territory, and the operational command of which shall be exercised as provided in Article 18 below.

ARTICLE 17

The protection of the civilian population (civil defense) shall be ensured by each of the member States.

ARTICLE 18

1. The competent Supreme Commander responsible to the North Atlantic Treaty Organization shall, except as provided in Section 3 of this Article, be empowered to satisfy himself that the European Defense Forces are organized, equipped, trained and prepared for use in a satisfactory manner.

As soon as they are ready for use, the European Defense Forces shall, except as provided in Section 3 of this Article, be at the disposal of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, who shall exercise with respect to them the powers and responsibilities accruing to him under his terms of reference and shall, in particular, submit to the Community his needs as regards the articulation and deployment of these Forces; the plans corresponding to these needs shall be executed in accordance with the provisions of Article 77 below.

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[1] *Infra.*

The European Defense Forces shall receive technical directives from the appropriate bodies of the North Atlantic Treaty Organization within the framework of the military competence of such bodies.

2. During wartime, the competent Supreme Commander of the North Atlantic Treaty Organization shall exercise with regard to the Forces provided for above the full powers and responsibilities of Supreme Commanders, such as these are conferred upon him by his terms of reference.

3. In the case of units of the European Defense Forces assigned to internal defense and to the protection of the maritime approaches to the territories of the member States, the authorities which shall command and employ such units shall be determined either by North Atlantic Treaty Organization conventions concluded within the framework of the North Atlantic Treaty or by agreements between the North Atlantic Treaty Organization and the Community.

4. If the North Atlantic Treaty should cease to be in effect before the present Treaty, the member States shall, by agreement among themselves, decide upon the authority to which the command and employment of the European Defense Forces shall be entrusted.

TITLE II—THE INSTITUTIONS OF THE COMMUNITY

Chapter I—The Commissariat

ARTICLE 19

The Commissariat, with a view to carrying out the tasks assigned to it by virtue of the present Treaty, shall be vested with executive and supervisory powers as provided in the present Treaty.

ARTICLE 19 BIS

The Commissariat shall assume its functions as of the [date of the] appointment of its members.

ARTICLE 20

1. The Commissariat shall be composed of nine members appointed for six years and chosen for their general competence.

Only nationals of the member States may be members of the Commissariat. It may not include more than two members of the same nationality.

Members shall be eligible for reappointment. The number of members of the Commissariat may be reduced by unanimous decision of the Council.

2. In the discharge of their duties, the members of the Commissariat shall neither solicit nor accept instructions from any Government.

They will abstain from all conduct incompatible with the supranational character of their functions.

Each member State agrees to respect this supranational character and to make no effort to influence the members of the Commissariat in the execution of their task.

The members of the Commissariat shall not exercise any other professional activity during their terms of office.

For three years immediately following the termination of his term of office, no former member of the Commissariat shall engage in any professional activity which the Court, before which he or the Council may have brought the question, may declare to be incompatible with obligations resulting from his tenure of office because of its connection with the functions of such office. In case of violation of this provision, the Court may decree the forfeiture of the pension rights of the persons concerned.

ARTICLE 21

1. The Governments of the member States shall appoint the members of the Commissariat by agreement among themselves.

2. The members appointed for the first time following the entry of the Treaty into effect shall hold office for a period of three years following their appointment.

In case a vacancy should occur during this first period for one of the reasons set forth in Article 22 below, such vacancy shall be filled in accordance with the provisions of Section 1 of this Article.

The same procedure shall apply to the general reappointment rendered necessary in case Section 2 of Article 36 below should be applied.

3. At the expiration of the initial period of three years, a general reappointment shall take place.

4. Afterwards, one-third of the members of the Commissariat shall be reappointed every two years.

Immediately after the general reappointment provided for in Section 3 of this Article, the Council shall determine by lot the members whose terms of office shall end respectively after the first and after the second two-year periods.

5. If the members of the Commissariat should vacate their offices pursuant to the provisions of Section 2, Article 36, below, the provisions of Sections 3 and 4 of this Article shall be applicable.

ARTICLE 22

Aside from regular reappointments, terms of office of individual members of the Commissariat may be ended by death, resignation or removal.

A deceased, resigned or removed member shall be replaced, for the remaining period of his term of office, in accordance with the provisions of Article 21 above. There shall be no replacement if the remaining period of such member's term of office comes to less than three months.

ARTICLE 23

Members of the Commissariat who no longer fulfill the conditions necessary to the exercise of their functions or who have committed serious offenses may be removed from office by the Court on petition of the Council or of the Commissariat.

In such a case, the Council, by unanimous vote, may temporarily suspend members of the Commissariat and provide for their replacement until such time as the Court shall have acted.

ARTICLE 24

1. Decisions of the Commissariat are taken by a majority of members present. The President shall cast tie-breaking votes. Nevertheless, no decision may be taken by fewer than four affirmative votes.

2. The internal regulations shall fix the quorum. The quorum shall consist of no fewer than five members.

3. Should the Council, pursuant to the provisions of Section 1 of Article 20 decide to reduce the number of members of the Commissariat, it shall, under the same conditions, appropriately modify the figures set in the preceding Sections of this Article.

ARTICLE 25

1. The Governments of the member States shall appoint the President of the Commissariat from among its membership by agreement among themselves.

The President's term of office shall be four years. He shall be eligible for reappointment. His term of office may end under the same circumstances as those of members of the Commissariat.

2. The President shall not be included in any determination by lot which could result in abridging his term of office as President by causing the expiration of his term of office as a member of the Commissiariat.

When the President is chosen from among members of the Commissariat already in office, the length of his term of office as a member of the Commissariat shall be extended until the expiration of his term of office as President.

3. Except in the case of a general reappointment the President shall be designated after consultation of the members of the Commissariat.

ARTICLE 25 BIS

1. The term of office of the first President shall end after three years.

ARTICLE 26

1. The Commissariat shall establish general organizational regulations which will determine principally:

a. On the basis of the principle of collegiate responsibility, the categories of decisions which should be taken collectively by the Commissariat and those which might be delegated to members of the Commissariat to be taken individually within their respective fields of competence.

b. The distribution of the tasks of the Commissariat among its members, bearing in mind the necessity for a stable structure while at the same time leaving open the possibility of changes which experience may demonstrate to be necessary; this distribution shall not necessarily correspond to the number of members of the Commissariat.

2. Within the framework of these regulations:

a. The Commissariat shall determine the respective duties of its members.

b. The President
shall coordinate the exercises of these duties,
shall insure the execution of decisions of the Commissariat, and
shall be responsible for the administration of the services.

In the case and under the conditions provided for in Article 123 below, the President may be temporarily vested with special powers.

ARTICLE 27

In the exercise of its powers, the Commissariat shall take decisions, make recommendations and issue opinions.

Decisions shall be binding in all their details.

Recommendations shall be binding with respect to the objectives which they specify, but shall leave to those to whom they are directed the choice of appropriate means for attaining these objectives.

Opinions shall not be binding.

In cases in which the Commissariat is empowered to issue a decision, it may limit itself to making a recommendation.

ARTICLE 28

All decisions and recommendations as well as all opinions of the Commissariat shall be published or registered in accordance with rules to be established by the Council.

Decisions, recommendations or opinions of the Commissariat directed to the Government of a member State shall be addressed to the authority designated for this purpose by such State.

ARTICLE 29

The Commissariat shall report to the Council at periodic intervals.

It shall supply the Council with information requested of it by the Council and shall undertake studies at its request.

The Commissariat and the Council shall exchange information and have reciprocal consultations.

ARTICLE 30

The Commissariat shall have at its disposal the civilian and military personnel necessary to permit it to assume all the tasks assigned to it by the present Treaty.

The services which the Commissariat establishes to this end, civilian as well as military, shall be responsible to it by the same authority and on the same level and in the same manner.

ARTICLE 31

1. Ranks higher than Commander of a basic unit of homogeneous nationality shall be conferred by the Commissariat with the unanimous concurrence of the Council.

2. For a temporary period, ranks in units of homogeneous nationality of the European Defense Forces, and all other ranks, shall be conferred, at the option of each member State:

either by the appropriate national authority upon the recommendation of the Commissariat,

or by the Commissariat upon recommendation coming through the appropriate chain of command, after consultation with national authorities.

3. (a) Assignments of Commanders of basic units, or general, officers to posts involving the exercise of authority over elements of more than one nationality, and assignments to certain high positions with the Commissariat designated by the Council, shall be made by the Commissariat with the unanimous concurrence of the Council.

(b) All other military assignments shall be made by the Commissariat, having due regard for the recommendations of appropriate command echelons.

4. Appointments of civilian heads of services directly responsible to the Commissariat shall be made by the latter with the unanimous concurrence of the Council.

ARTICLE 32

The Commissariat shall ensure that all necessary liaison with the member States, with other States, and in general, with all international organizations whose cooperation is needed in carrying out the objectives of the present Treaty.

Chapter II—The Assembly

ARTICLE 33

1. The Assembly of the European Defense Community is the Assembly provided for in Articles 20 and 21 of the Treaty of April 18, 1951 establishing the European Coal and Steel Community,[1] completed, as regards the German Federal Republic, France and Italy, by three further delegates each, who shall be elected under the same conditions and for the same terms as the other delegates, and whose first terms of office shall expire at the same time as theirs.

The Assembly so completed shall exercise the powers conferred on it by the present Treaty. If it deems it necessary, it may elect its own President and officials and draw up its own internal regulations.

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[1] *Supra*, p. 1046.

2. If the Conference provided for in the last paragraph of Article 38 below has not reached an agreement within one year after its convocation, the member States by agreement among themselves shall proceed to a revision of the provisions of Section 1 of this present Article without waiting for the Conference to finish its work.

ARTICLE 34

The Assembly shall hold an annual session. It shall meet in regular session the last Tuesday in October. The length of this session shall not exceed one month.

The Assembly may be convened in an extraordinary session at the request of the Commissariat, the Council, the President of the Assembly or the majority of its members, or, in the case provided for in Article 46 below, at the request of a member State.

ARTICLE 34 BIS

The Assembly shall meet one month after the date on which the Commissariat shall have assumed its functions; it shall be called into session by the Commissariat. The provisions of Article 34 relative to the duration of regular sessions of the Assembly shall not be applicable to the first session.

As soon as it meets, the Assembly shall be empowered to perform the duties assigned to it by the present Treaty, with the exception of voting on a motion of censure provided for in Section 2 of Article 36 below. Such a vote may come only at the end of one year following the date on which the Commissariat shall have assumed its functions.

ARTICLE 35

The members of the Commissariat may attend all sessions of the Assembly. The President or any members of the Commissariat designated by the Commissariat for this purpose, shall be heard upon their request. The Commissariat shall reply, orally or in writing, to questions which are put by the Assembly or by its members.

The members of the Council may attend all sessions and shall be heard on their request.

ARTICLE 36

1. The Commissariat shall each year make to the Assembly a general report concerning the former's activity, which shall be presented one month before the opening of the regular session. The Assembly shall discuss this report and may formulate comments and express its wishes or suggestions.

2. If a motion of censure concerning the operations of the Commissariat is presented to the Assembly, a vote may be taken thereon only after a period of not less than three days following the introduction of such motion, and such vote shall be by open ballot.

If the motion of censure is adopted by two-thirds of the members present and voting, representing a majority of the total membership, the members of the Commissariat shall resign in a body. They shall continue to carry out current business until their replacement in accordance with Article 21 above.

ARTICLE 37

The Assembly shall adopt its own internal rules of procedure by vote of a majority of its membership.

Acts of the Assembly shall be published when and as provided by the Assembly.

ARTICLE 38

1. Within the period provided for in Section 2 of this Article, the Assembly shall study:

(a) the creation of an Assembly of the European Defense Community elected on a democratic basis;

(b) the powers which might be granted to such an Assembly; and

(c) the modifications which should be made in the provisions of the present Treaty relating to the other institutions of the Community, particularly with a view to safeguarding an appropriate representation of the States.

In its work, the Assembly will particularly bear in mind the following principles:

The definitive organization which will take the place of the present transitional organization should be conceived so as to be capable of constituting one of the elements of an ultimate Federal or confederal structure, based upon the principle of the separation of powers and including, particularly, a bicameral representative system.

The Assembly shall also study problems to which the co-existence of different organizations for European cooperation, now in being or to be created in the future, give rise, in order to ensure that these organizations are coordinated within the framework of the federal or confederal structure.

2. The proposals of the Assembly shall be submitted to the Council within six months from the date on which the Assembly shall have assumed its functions. These proposals will then be forwarded, together with the opinion of the Council, by the President of the Assembly to the Governments of the member States, which, within three months from the date of the receipt of these proposals, shall call a conference for the purpose of examining them.

Chapter III—The Council

ARTICLE 39

1. The general task of the Council is to harmonize the actions of he Commissariat with the policies of the Governments of the member States.

2. The Council may, within the framework of the present Treaty, issue directives for the action of the Commissariat.

These directives shall be issued by unanimous vote.

Concerning matters which have not been the subject of directives by the Council, the Commissariat may take action, subject to the provisions of the present Treaty, with a view to ensuring the fulfillment of the objectives of the present Treaty.

3. In conformance with the provisions of the present Treaty, the Council:

(a) shall take decisions.

(b) shall issue concurrences which the Commissariat shall be bound to obtain before making decisions or issuing recommendations.

4. Unless otherwise provided in the present Treaty, the decisions of the Council shall be taken and its opinions issued by a simple majority.

5. Whenever the Council is consulted by the Commissariat, it shall deliberate without necessarily proceeding to a vote. The minutes of these deliberations shall be transmitted to the Commissariat.

ARTICLE 40

The Council shall be composed of representatives of the member States.

Each member State shall designate thereto a member of its government who may be represented by a Deputy.

The Council shall be organized so as to be able to exercise its functions at all times. To this end, each member State shall at all times have a representative able to participate in the deliberations of the Council without delay.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the member States.

ARTICLE 41

The Council shall meet as often as necessary and at least every three months. It shall meet upon convocation by its President, at the initiative of the President, of one of its members or of the Commissariat.

ARTICLE 41 BIS

The Council shall meet as soon as the Treaty has entered into effect.

ARTICLE 42

In case of a vote, a member of the Council may act as proxy for not more than one other member.

ARTICLE 43

1. Whenever the present Treaty requires a concurrence or a decision of the Council by a simple majority, such concurrence or decision shall be deemed to be granted or taken if it is approved:

either by an absolute majority of the representatives of the member States;

or, in case of an equal division of votes, by the votes of representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States.

2. Whenever the present Treaty requires a concurrence or a decision of the Council by a qualified majority, such concurrence or decision shall be deemed to have been granted or taken by such a majority:

either if such majority includes the votes of the representatives of the member States which together place at the disposal of the Community at least two-thirds of the total contributions of the member States;

or if it receives the votes of the representatives of five member States.

3. Whenever the present Treaty requires a concurrence or a decision of the Council by unanimous vote, such concurrence or decision shall be deemed to have been granted or taken if it is approved by the votes of all the members present or represented on the Council. Abstentions shall not prevent the adoption of such concurrence or decision.

4. In Sections 1 and 2 of this Article, the word "contributions" shall be understood to mean the average between the percentage of the financial contributions actually paid during the previous fiscal year and the percentage of men making up the European Defense Forces on the first day of the current half year.

ARTICLE 43 BIS

1. For purposes of the application of Section 4 of Article 43 above, until the date set for the complete execution of the plan for the formation of the first echelon of the forces, the average contributions furnished by the member States, which are provided for in the said Section, shall be evaluated on a forfeitary basis as follows: Germany—3, Belgium—2, France—3, Italy—3, Luxembourg—1, The Netherlands—2.

2. During the transitional period defined in Section 1 of this Article, the requirement of a percentage of the total contributions of the member States established by Article 43, Section 1 above shall be considered to have been met whenever at least nine-fourteenths of the total value of the contributions of the member States as evaluated on a forfeitary basis is reached.

ARTICLE 44

Modifications in texts defining the status of personnel and in texts establishing the general organization, recruitment rules and the size and structure of the forces, as well as modifications in the plan establishing the European Defense Forces, shall be made by unanimous agreement of the Council, upon the proposal of a member of the Council or of the Commissariat, and shall be executed by the latter.

ARTICLE 45

The Council shall determine the salary, emoluments and pension rights of the President and members of the Commissariat.

ARTICLE 46

The Council, acting by a two-thirds majority, may, on the initiative of one of its members, invite the Commissariat to take any measure within the limits of its competence.

If the Commissariat does not act on such invitation, the Council or a member State may refer the matter to the Assembly for purposes of action under Section 2, Article 36 above.

ARTICLE 47

The Council shall decide when it is appropriate to call a joint meeting with the Council of the North Atlantic Treaty Organization.

Decisions taken unanimously in the course of joint meetings of the two Councils shall be binding on the institutions of the Community.

ARTICLE 48

The decision of the Council provided for in paragraph 4 of the Protocol Concerning Relations between the North Atlantic Treaty Organization and the European Defense Community[1] shall be taken unanimously.

ARTICLE 49

The minutes of the meetings of the Council shall be communicated to the member States and to the Commissariat.

ARTICLE 50

The Council shall establish its own rules of procedure.

Chapter IV—The Court

ARTICLE 51

The function of the Court is to ensure the rule of law in the interpretation and application of the present Treaty and implementing regulations.

ARTICLE 52

The Court is the Court of Justice of the European Coal and Steel Community.

ARTICLE 53

For the discharge of its functions, the Court shall, in cases and in the manner provided for in the annexed protocols, be assisted by a judicial system including particularly subordinate courts which shall be European in character.

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[1] Protocol of May 27, 1952; *infra*, doc. 19.

ARTICLE 54

1. The Court shall have jurisdiction to hear appeals from decisions or recommendations of the Commissariat, by a member State, by the Council or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within a maximum period of one month following either the publication or registration of the decision or recommendation in question.

3. If the Court should annul a decision or recommendation of the Commissariat, the matter shall be remanded to the Commissariat which shall take the measures necessary to give effect to the judgment of annulment.

ARTICLE 55

1. If the Commissariat is required by a provision of the present Treaty or of implementing regulations to issue a decision or recommendation and fails to fulfill this obligation, such omission may be brought to its attention by the member States or by the Council.

The same shall be true if the Commissariat refrains from issuing a decision or recommendation which it is empowered to issue by a provision of the present Treaty or of implementing regulation where such failure to act constitutes an abuse of power.

2. If at the end of a period of two months the Commissariat has not issued any decision or recommendation, an appeal may be brought before the Court, within a period of one month, against the implicit negative decision which is presumed to result from such failure to act.

ARTICLE 56

1. If a member State feels that, in a given case, an action or lack of action on the part of the Commissariat may provoke, as concerns such State, fundamental and persistent disturbances, it may so inform the Commissariat.

After consulting with the Council, the Commissariat shall, if appropriate, recognize the existence of such a situation and decide upon the measures to be taken under the provisions of the present Treaty to end such a situation while at the same time safeguarding the essential interests of the Community. The Commissariat shall make its decision within a two-week period.

2. If an appeal grounded on the provisions of this Article is made to the Court against this decision or against the explicit or implicit decision refusing to recognize the existence of the situation indicated above, the Court shall decide the merits of the case and shall provisionally take all necessary measures.

3. If a decision of the Commissariat is annulled, the latter shall decide upon measures to be taken to achieve the ends provided for in Section 1 of this Article, within the framework of the decree of the Court.

ARTICLE 57

The Court shall have jurisdiction to hear appeals from decisions of the Council by a member State, by the Commissariat or by the Assembly on grounds of lack of legal competence, substantial procedural violations, violation of the present Treaty or of any rule of law relating to its application, or abuse of power.

2. Such appeals must be taken within one month following the date on which the decision of the Council is communicated to the member States or to the Commissariat.

ARTICLE 58

1. The Court may annul decisions of the Assembly on the motion of a member State or of the Commissariat.

The jurisdiction of the Court may be invoked under this Article only on grounds of lack of legal competence to act or of substantial procedural violations.

2. The jurisdiction of the Court may be invoked under this Article only within a period of one month following the date of publication of the Assembly's decision in question.

ARTICLE 59

Appeals to the Court shall not have the effect of suspending the execution of a decision or a recommendation.

However, if in its judgment circumstances demand it, the Court may order the suspension of the execution of the decision or recommendation in question.

The Court may prescribe any other necessary provisional measures.

ARTICLE 60

The Court shall have jurisdiction, in the cases and in the manner provided for in the annexed protocols, to hear controversies concerning the civil liability of the Community or the legal status of its agents.

ARTICLE 61

The Court shall have jurisdiction to hear criminal matters in cases and in the manner provided for in the annexed protocol.

ARTICLE 61 BIS

Transitional provisions contained in the protocol mentioned in Article 61 above shall be applicable until such time as a common military criminal code comes into effect.

ARTICLE 62

When the validity of decisions or recommendations of the Commissariat or decisions of the Council is contested in litigation before a national tribunal, such issue shall be certified to the Court, which shall have exclusive jurisdiction to rule thereon.

ARTICLE 63

Without prejudice to the provisions of the Code of Jurisdiction provided for in Article 67, the Court, in cases and in the manner provided for in its Code, shall have such jurisdiction as may be provided by any clause to such effect in a public or private contract to which the Community is a party or which is undertaken for its account.

ARTICLE 64

The Court shall have jurisdiction in any other case provided for in the present Treaty.

The Court may also exercise jurisdiction in any case relating to the objectives of the present Treaty, where the laws of a member State grant such jurisdiction to it.

ARTICLE 65

1. Any difference among the member States concerning the application of the present Treaty which cannot be settled by other means may be submitted to the Court either at the common request of States which are parties to the dispute or at the request of one of the States.
2. The Court shall also have jurisdiction over any differences among the member States relating to the objectives of the present Treaty if such differences are submitted to it pursuant to a compromise agreement.

ARTICLE 66

Judgments of the Court shall be enforceable on the territories of the member States.

Execution of such judgments on the territory of a member State shall be in accordance with the laws in force in such State; in particular, there may be no execution of such a judgment in a member State which would not be permitted by the generally applicable legislation of such State.

Execution of judgments of the Court shall take place after the judgment formula in use in the territory of the State concerned has been appended; no other action shall be necessary with respect to a judgment of the Court other than verification of its authenticity. These formalities with respect to the judgments of the Court shall be carried out by a Minister designated for that purpose by each of the governments.

ARTICLE 67

The application of the provisions of this chapter and of the Protocol concerning Jurisdiction shall be regulated by a Code of Jurisdiction which shall be enacted in the form of a convention among the member States and which shall, in particular, make the modifications necessary to ensure such application in the Code of the Court as annexed to the Treaty establishing the Community.

TITLE III—MILITARY PROVISIONS

Chapter I—Organization and Administration of the European Defense Forces

ARTICLE 68

1. The basic units in which the activity of the various branches of service making up the Ground Forces are to be combined shall be composed of elements of the same national origin. These basic units shall be as light as possible while maintaining necessary effectiveness. To the extent possible, they shall be relieved of logistic functions, and shall depend for their existence and maintenance upon higher integrated echelons.

2. The Army Corps shall be composed of basic units of different national origins, except in special cases resulting from tactical needs or organizational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic Treaty Organization; in such cases the Commissariat shall make its determination with the unanimous concurrence of the Council. Their tactical support units as well as their logistical support formations shall be integrated; but constituent units of regiment or battalion size shall remain homogeneous and their distribution among nationalities shall be made according to the proportion existing among the basic ground units. The Command and Headquarters of the Army Corps shall be integrated; such integration shall be effected in the manner best suited to ensuring effectiveness in their utilization.

3. The basic units and their support troops and services may occasionally be brought into Army Corps subject to the authority of the North Atlantic Treaty Organization, and reciprocally, subject to the authority of the North Atlantic Treaty Organization, divisions may be brought into European Army Corps.

The Commanding echelons of Forces subject to the authority of the North Atlantic Treaty Organization, to which the European units shall be attached organically shall integrate elements coming from these units and vice-versa.

ARTICLE 69

1. The basic Air Force units shall be composed of elements of the same national origin, each of which shall have homogeneous combat matériel corresponding to a given basic mission.

These basic units shall, as far as possible, be relieved of their logistical functions and shall depend upon higher integrated echelons for their supplies and maintenance.

2. A certain number of basic units of different national origins shall be grouped under the orders of integrated higher echelons, except in special cases resulting from tactical needs or organisational necessities and determined by the Commissariat on the recommendation of the competent Supreme Commander responsible to the North Atlantic

Treaty Organization; in such cases the Commissariat shall make its determination with the unanimous concurrence of the Council. The logistic support formations shall be integrated; but the constituent service units shall remain of homogeneous national composition and their distribution among nationalities shall be made according to the proportion existing among the basic units.

3. European basic units as well as their support units may be brought under Commands responsible to the North Atlantic Treaty Organization and, reciprocally, basic units subject to the authority of the North Atlantic Treaty Organization may be brought under European Commands.

> The Command echelons responsible to the North Atlantic Treaty Organization to which European units are attached organically shall integrate European elements and vice-versa.

ARTICLE 70

1. The European Naval Forces shall consist of formations which are assigned to the protection of the maritime approaches of the European territories of member States, determined by agreement between the governments.

2. Contingents of the European Naval Forces shall constitute homogeneous groupements European in status and shall all have the same tactical mission.

3. These groupements may occasionally, wholly or in part, be incorporated into formations subject to the authority of the North Atlantic Treaty Organization; in such cases, elements furnished by these groupements shall be integrated into the command echelons of such formations.

ARTICLE 71

With the unanimous concurrence of the Council, the Commissariat shall establish the plans for the organization of the Forces. The Commissariat shall ensure the execution of such plans.

ARTICLE 72

1. Personnel conscripted to serve in the European Defense Forces shall serve the same period of active duty.

2. The period of active duty service in the European Defense Forces shall be rendered uniform as soon as possible by unanimous decision of the Council on recommendation of the Commissariat.

ARTICLE 73

1. Recruitment for the European Defense Forces in each member State shall be carried out in accordance with laws of such State within the framework of the common principles defined in the Military Protocol.

2. The Commissariat shall oversee the recruiting operations for the European Defense Forces carried out by the member States in accordance with the provisions of the present Treaty, and, in order to ensure

conformity with such provisions, shall, if necessary, make recommendations to the member States.

3. Beginning with a date fixed by common agreement among the governments of the member States, the Commissariat shall itself undertake recruiting in accordance with the provisions of such agreement and within the framework of the common principles laid down in the Military Protocol.

ARTICLE 74

1. The Commissariat shall direct the training and preparation of the European Defense Forces according to a common doctrine and uniform methods. In particular, the Commissariat shall direct the schools of the Community.

2. Upon the request of a member State, due regard shall be had, in the application of Section 1 of this Article, of the particular situation resulting for such State from the existence, by virtue of its Constitution, of more than one official language.

ARTICLE 75

The Commissariat shall draw up mobilization plans for the European Defense Forces, in consultation with the governments of the member States.

Without prejudice to the final organization to be established under the provisions of Article 38 above, the decision to proceed with mobilization shall be made by the member States; execution of mobilization measures shall be divided between the Community and the member States in a manner to be determined by agreements between the Commissariat and such States.

ARTICLE 76

The Commissariat shall exercise the necessary powers of inspection and supervision.

ARTICLE 77

1. The Commissariat shall determine the territorial deployment of the European Defense Forces within the framework of recommendations of the competent Supreme Commander responsible to the North Atlantic Treaty Organisation. In case of differences of opinion which cannot be settled with the latter, the Commissariat may set aside such recommendations only with the unanimous approval of the Council.

Within the framework of the general decisions provided for in Section 1 of this Article, the Commissariat shall take executive measures, after consultation with the State in which the troops are to be stationed.

2. In case of differences of opinion on essential points, the State in question may appeal to the Council. Such State must abide by the decision of the Commissariat if the Council upholds the latter by a two-thirds majority vote.

The privilege granted member States by Article 56 above shall not be affected by the provisions of this Article.

ARTICLE 78

The Commissariat shall administer personnel and matériel in conformance with the provisions of the present Treaty.

It shall endeavor to ensure a distribution of armaments and equipment looking to uniformity within units of the European Defense Forces.

ARTICLE 78 BIS

1. As soon as it takes up its duties, the Commissariat shall:

draw up plans for the formation and equipment of the first echelon of the Forces in accordance with the provisions of an agreement adopted by the member States and within the framework of North Atlantic Treaty Organization plans;

decide upon and organize the assistance to be requested from States parties to the North Atlantic Treaty in the training of contingents;

draw up summary provisional regulations on essential points.

2. As soon as it takes up its duties, the Commissariat shall undertake formation of the units of the first echelon of the Forces.

3. As soon as the Treaty comes into effect, the units already in existence and the contingents to be recruited by the member States to complete this first echelon shall immediately come under the authority of the Community and shall be placed under the jurisdiction of the Commissariat, which shall exercise over them the powers granted it in the present treaty, under the conditions provided for in the Military Protocol.

4. The Commissariat shall submit to the Council as soon as possible the plans and projects provided for in Section 1 of this Article.

The Council shall approve:

unanimously, the plan for forming the first echelon of the Forces;

by a two-thirds majority, the other plans and projects.

The plans and projects shall be put into effect by the Commissariat as soon as they have been approved by the Council.

ARTICLE 79

A single general regulation concerning military discipline, which shall be applicable to the members of the European Defense Forces shall be enacted by agreement among the governments of the member States, ratified in accordance with the constitutional procedures of each such State.

Chapter II—Legal Status of the European Defense Forces

ARTICLE 80

1. In the exercise of the functions assigned to it by the present Treaty, and without prejudice to the rights and obligations of the member States:

the Community shall have, in respect of the European Defense Forces and their members, the same rights and obligations as the

States in respect of their national forces and their members, in accordance with customary international law;

the Community shall respect the rules embodied in conventions concerning the laws of war which bind one or more of its member States.[1]

2. Consequently, European Defense Forces and their members shall benefit, under international law, from the same treatment as national forces and their members.

ARTICLE 81

The Community shall ensure that the European Defense Forces and their members conform in their conduct to the rules of international law. It shall ensure the punishment of all violations of such rules which may be committed by such Forces or their members.

2. The Community shall take, within the limits of its competence, penal measures and all other appropriate measures in all cases in which such a violation shall have been committed by the Forces of a third State or their members.

The member States shall likewise, on their part, within the limits of their competence, take penal measures and all other appropriate measures against all violations of rules of international law committed against the European Defense Forces or their members.

ARTICLE 82

The legal status of the European Defense Forces shall be determined by a Protocol annexed to the present Treaty.[2]

TITLE IV—FINANCIAL PROVISIONS

ARTICLE 83

The financial administration of the European Defense Community shall be carried out in accordance with the provisions of the present Treaty, the Financial Protocol[3] and the financial regulations.

To ensure the respect of the provisions thus set forth, a Financial Comptroller and an Accounts Commission shall be created whose powers and responsibilities are defined in the following Articles.

ARTICLE 84

The Financial Comptroller shall be independent of the Commissariat and responsible to the Council. He shall be appointed by unanimous vote of the Council. His term of office shall be five years. He may be reappointed.

ARTICLE 85

The Accounts Commission shall be an independent collegial authority. Nationals of each of the member States shall be among its members.

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[1] See the (second) Special Protocol, May 27, 1952; *infra*, doc. 21.

[2] *Infra*, doc. 27.

[3] *Infra*, doc. 18.

The Council shall, by unanimous vote, determine the number of members of the Commission. The Council shall by two-thirds vote appoint members of the Commission and its President. The term of office of members of the Commission shall be five years. They may be reappointed.

ARTICLE 86

As soon as the Treaty comes into effect, all the receipts and all the expenditures of the Community shall be written into an annual common budget.

The fiscal year of the Community shall begin on January 1. This date may be changed by decision of the Council.

ARTICLE 87

1. In consultation with the Governments of the member States and having regard especially for the provisions of Article 71, the Commissariat shall prepare the budget of the Community. The draft of a common plan for armament, equipment, supply and infrastructure shall be annexed to the draft budget.

The receipts and expenditures of the institutions of the Community shall be dealt with in special sections within the general budget.

2. This draft shall be submitted to the Council at least three months before the beginning of the fiscal year.

Within a period of one month, the Council shall decide:

a) unanimously, the total volume of the budget expressed in authorizations for cash outlays and contracting authorizations, and the amount of the contribution of each member State determined in conformance with Article 94 below; it shall be incumbent upon the government of each member State to ensure the inclusion of the amount determined as its contribution in its budget, in accordance with its constitutional rules;

b) by a two-thirds majority, the distribution of expenditures.

The provisions of subparagraphs (a) and (b) of this Section shall not be applicable to the receipts and expenditures resulting from an agreement concerning foreign aid provided for in Article 99 below, nor to receipts and expenditures which merely transit through the common budget as provided in the Financial Protocol.

3. The common budget thus approved by the Council shall be forwarded to the Assembly, which shall take a vote on it not later than two weeks before the beginning of the fiscal year.

The Assembly may propose changes by annulling, reducing, increasing, or adding receipts or expenditures. These proposals may not have the effect of increasing the total amount of expenditures appearing in the budget adopted by the Council.

The Assembly, by a two-thirds majority of votes cast and a simple majority of its membership, may propose the rejection of the entire budget.

4. In all cases provided for in Section 3 of this Article, the Commissariat or a member State may, within fifteen days after the vote, ask the Council to undertake a second reading within two weeks. Propositions of the Assembly shall be adopted if the Council approves them by a two-thirds majority. If the Council has not been requested to undertake a second reading as herein provided within a fifteen-day period, the Assembly's proposal shall be considered to have been adopted by the Council.

ARTICLE 87 BIS

1. Notwithstanding the provisions of Article 87 above, the Council alone shall approve the budget for the period between the entry into effect of the Treaty and the end of the calendar year in question.

In the matter of expenditures, the military and financial programs of all of the member States for the build-up of units which are to constitute the European Forces shall be taken into account to the greatest extent possible in establishing this budget.

2. For the execution of this Budget, the Commissariat shall delegate to the appropriate national services the responsibility of carrying out, for its account, the expenditures for the European Defense Forces, to the extent that its own services do not allow it to perform these tasks.

3. Until the first common budget has been approved, the Community shall receive advances from the member States to enable it to meet its first expenses; these advances shall be credited later to their contributions. Expenditures paid out of these advances shall be reinstated in the common budget.

The common budget for the first complete fiscal year following the entry into effect of the Treaty shall be prepared, approved and executed according to the general principles of the Treaty. However:

a) The contributions of the member States to the budget for this fiscal year shall be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation, to the exclusion of any other method;

b) At the request of any member State which feels that the common budget thus drawn up is not in accord with the intentions expressed by its Government or its Parliament, either as regards the fulfillment of its commitments to the North Atlantic Treaty Organisation or the means employed to carry out these commitments, the Community shall submit this budget to the competent authorities of the North Atlantic Treaty Organisation for their opinion.

ARTICLE 88

1. If, at the beginning of the fiscal year, the budget has not yet been finally approved, the Community shall be empowered to provide for its expenditures by monthly slices equal to 1/12 of the funds

in the budget for the preceding year. This power shall end after three months. The expenditures may not exceed one fourth of expenditures for the preceding year.

In the case provided for in the preceding paragraph, the member States shall grant advances to the Community in accordance with the scale applicable in the preceding year. These advances shall be credited against their contributions.

If at the expiration of the time limit provided for in the first paragraph, the budget has not yet entered into force, the budget decided on by the Council shall enter into force, provided that the Assembly has had at least two weeks' time to study it.

2. In case of necessity, the Commissariat may, during the course of the fiscal year, submit a supplementary budget which shall be approved in the same manner as the regular budget with the time limits reduced by half.

ARTICLE 89

1. The budget shall be subdivided into sections, chapters and articles. It shall be established in gross totals and shall contain all the receipts and all the expenditures of the Community.

In particular, it shall include the annual expenditures necessary for the execution of common plans for armament, equipment, supply and infrastructure for a period of several fiscal years.

2. The budget shall be established in a common currency chosen by the Council by two-thirds majority.

The relation between this common currency and the national currency shall be determined by the official rate of exchange indicated to the Community by each State.

ARTICLE 90

1. The Commissariat may, within the limits of general or specific authorizations given it in the budget itself, by a two-thirds majority of the Council or by the financial regulations, transfer appropriations among the items of the budget for the administration of which it is responsible. Such transfers shall require the approval of the Financial Comptroller whenever they are made in virtue of a general authorization.

2. Under the same conditions, similar transfer powers shall be vested in other institutions of the Community with respect to appropriations for the administration of which they are responsible.

ARTICLE 91

The execution of the budget shall be ensured by the Commissariat and by the other institutions of the Community in accordance with the provisions of the Financial Protocol.[1]

In the establishment and execution of the budget, the institutions of the European Defense Community shall ensure that commitments taken by the member States with the North Atlantic Treaty Organisation are respected. Contracts made by the member States with third parties before the Treaty comes into force shall be executed unless they can be modified in the interest of the Community with the accord of the Government which signed them.

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[1] *Infra*, doc. 18.

ARTICLE 92

The execution of the budget shall be supervised by the Financial Comptroller.

All decisions of the Commissariat which commit expenditures shall be submitted for approval by the Financial Comptroller, who, by his signature, shall verify the budgetary regularity of the expenditure and its conformity with provisions of the financial regulations.

Without prejudice to the provisions of Articles 54 and 57, the Commissariat may override a refusal of signature by the Financial Comptroller, by sending the latter, in writing, a special requisition for the expenditure in question. After having received this requisition, the Financial Comptroller shall immediately report it to the Council; the latter shall consider the matter with the least possible delay.

After three months, the Financial Comptroller shall send a report on the execution of the budget to the Council, which shall transmit it to the Assembly. This report shall contain all appropriate observations concerning the financial management of the Commissariat.

The Financial Comptroller shall give his opinion on the budget drafts. This opinion shall be transmitted to the Commissariat. The Council shall add this opinion to the budget which it shall submit to the Assembly.

ARTICLE 93

The receipts of the Community shall include:

a) the contributions paid by the member States;
b) miscellaneous receipts of the Community itself;
c) the sums which the Community may receive by virtue of articles 7 and 99.

The Community shall also have at its disposal end-item aid received by virtue of Articles 7 and 99.

ARTICLE 94

As soon as the Treaty enters into effect, the contributions of the member States shall be fixed by the Council in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

The Council shall seek a proper method for determining the contributions which will ensure an equitable distribution of charges taking into account principally of the financial, economic and social capabilities of the member States. [*sic*] This method shall be adopted unanimously by the Council and shall be applied beginning with the fiscal year following its approval.

If there is no agreement on such a method, the contributions will continue to be determined in accordance with the procedure adopted by the North Atlantic Treaty Organisation.

ARTICLE 95

1. The contributions, determined in accordance with the preceding Articles, shall be payable monthly in the national currency, on the first day of each month. The Council, by unanimous decision, may accept the settlement by a State of its contribution in a currency other than its national currency.

2. In case of modification of the rate of exchange, the amounts remaining due on a contribution shall be adjusted on the basis of the new rate. However, as concerns sums corresponding to such adjustment, the debtor State may request that the total of such sums be limited to the loss suffered by the Community as a result of the modification in the rate of exchange. Such limitation shall be determined by unanimous decision of the Council.

The member States shall bear the entire burden of any additional expenditures on the Community's contracts which might result from the application of arrangements made by a member State in favor of contracting parties upon the occasion of a monetary reform.

3. If the real purchasing power of the currency is considerably inferior to its purchasing power at the time the budget was approved, without official modification of the rate of exchange, the Council of Ministers, at the request of the Commissariat or of a member State, shall study the measures to be taken to compensate for the loss which such a change may bring to the Community.

ARTICLE 96

In the establishment and execution of the budget, the Community shall endeavor to limit the monetary transfers among the member States or between them and other countries, which might affect the economic and monetary stability of the member States.

The financial regulation will indicate the method by which such monetary transfers shall be carried out.

If, as a result of the execution of the budget, the economic and monetary stability of a member State is affected, the Commissariat, at the request of that State and in agreement with the interested Governments, shall take the necessary corrective measures. If no agreement is reached on such measures, the Council, at the request of the Commissariat or of a member State, shall take the necessary steps as provided in the present Treaty.

The member States commit themselves to make more flexible in favor of the Community the restrictions imposed by their exchange legislation on international monetary transfers.

ARTICLE 97

1. The Accounts Commission shall verify accounts in accordance with the provisions of the financial regulation.

On the basis of vouchers, the Accounts Commission shall verify the regularity of operations and the proper use of appropriations in the budget of the Community. For this activity, it is authorized to request the assistance of the accounting agencies of the member States.

2. The report on the result of the auditing of accounts shall be presented to the Council, which shall transmit it to the Assembly not later than six months after the expiration of the fiscal year.

On the basis of this report, the Accounts Commission shall submit to the Council a proposal for the discharge of each institution from further responsibility concerning its financial management for the period in question. The Council shall adopt a position with regard to this proposal and shall present it to the Assembly, which shall act thereon.

The discharge shall be considered to have been granted unless it is refused by a two-thirds majority of votes cast and a simple majority of the Assembly's membership.

ARTICLE 98

The Governments of the member States may ask the Financial Comptroller and the Accounts Commission for copies of vouchers and other verifying documents which they use in connection with their duties.

ARTICLE 99

The Commissariat shall deal with questions concerning foreign financial and end-item aid furnished to the Community.

Any agreement concerning foreign aid furnished to the Community shall be approved by the Council notwithstanding special provisions of the Financial Protocol concerning foreign aid.[1]

The Community may, with the unanimous approval of the Council, grant aid to third States in order to achieve the purposes defined in Article 2 above.

Any end-item aid intended for the European Defense Forces which the Community or the member States may receive shall be administered by the Commissariat.

The Council, by a two-thirds majority vote, shall be empowered to give general directives to the Commissariat in order to ensure that the latter's action concerning foreign aid does not endanger the economic, financial and social stability of one or more member States.

ARTICLE 100

The conditions of remuneration and the pension rights of the civil and military personnel employed by the Community are set forth in a Protocol annexed to the present Treaty.[2]

TITLE V—ECONOMIC PROVISIONS

ARTICLE 101

The Commissariat shall prepare in consultation with the Governments of the member States, the common armament, equipment, supply, and infrastructure programs of the European Defense Forces, and shall, in accordance with the provisions of Article 91, ensure their execution.

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[1] Articles 37 and 38 of the Financial Protocol; *infra*, p. 1170.

[2] Not reprinted here; see S. Execs. Q and R, 82d Cong., 2d sess., pp. 229–230.

ARTICLE 102

1. In preparing and executing the programs, the Commissariat shall:

a) utilize in the best way possible the technical and economic capabilities of each of the member States and avoid causing serious disturbances in the economies of any of them;

b) take into account the amounts of contributions to be furnished by the member States, and respect the rules set forth in the present Treaty concerning monetary transfers;

c) in collaboration with the appropriate bodies of the North Atlantic Treaty Organization simplify and standardize armaments, equipment, supplies and infrastructure as much and as rapidly as possible.

2. The Council may give general directives to the Commissariat within the framework of the principles set forth above. These directives shall be issued by a two-thirds majority vote.

ARTICLE 103

1. The expenditures necessary for the execution of the common programs shall be included in the budget estimate, which shall include as an annex a statement indicating projected execution of the program as allocated by categories of products and by countries. Approval of the budget shall be considered approval of these programs.

2. The Commissariat is authorized to establish programs extending over a period of several years. It shall submit these programs to the Council and shall request approval in principle from this body of those parts of the programs which involve financial commitments extending over several years. This approval shall be granted by a two-thirds majority of the Council.

ARTICLE 104

1. The Commissariat shall be responsible for the execution of the programs in consultation with the Council and the Governments of the member States.

2. The Commissariat shall ensure the placing of contracts, and shall supervise their execution, deliveries and payments for construction, goods, and services.

The Commissariat shall organize decentralized civilian services in such a manner that they can use the resources of each member State under the most advantageous conditions for the Community.

3. Contracts may be placed only after calling for the most extensive possible competitive bidding except in cases in which military secrecy, technical factors and conditions of urgency defined in the regulation provided for in Section 4 below necessitate otherwise. Contracts shall be concluded after public or restricted bidding or without bidding (by mutual consent) with firms capable of fulfilling the conditions, and

who are not excluded from public bidding for reasons independent of nationality. Exclusions based on nationality shall not be recognized as concerns nationals of the member States.

Within the framework of the provisions of Article 102 above, orders must be placed with the lowest bidders.

4. The procedures for placing contracts, and supervising the execution, receipt, and payment for construction, goods and services shall be determined by regulations. These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They can be amended by the same procedure.

5. Contracts above a certain amount shall be submitted by the Commissariat to a Contracts Committee including nationals of each of the member States.

If the Commissariat does not employ the advice of the Contracts Committee, it shall present a report to the Council giving its reasons.

The procedure for application of this Article shall be determined by regulations.

These regulations shall be submitted by the Commissariat for the approval of the Council by two-thirds majority vote. They may be amended by the same procedure.

6. In cases arising from contracts concluded between the Community and parties residing in one of the member States, the administrative or judicial nature of the controversy, the jurisdiction *ratione materiae* or *ratione loci* of an administrative or judicial tribunal as well as the applicable law shall be determined:

a) Where the dispute concerns real property, by the law of the place where the property is located;

b) In all other cases, by the law of the place where the supplier resides.

This rule may be changed by agreement between the parties, except as concerns the administrative or judicial nature of the competent jurisdiction and jurisdiction *rationae materiae.*

The Commissariat shall not normally have recourse to such agreements except in special cases or in order to give jurisdiction to a court operating under the authority of the Community.

7. If the Commissariat determines in the execution of the programs that national public policy or private practices or agreements tend to prevent or restrain seriously normal competitive conditions, it shall appeal to the Council, which shall decide unanimously on measures to remedy the situation.

The Council may be appealed to under the same conditions by a member State.

8. The regulations provided for in Sections 4 and 5 of Article 104 shall be submitted for the approval of the Council within six months after the entry into effect of the present Treaty.

Until these regulations are enacted, the Commissariat shall ensure the awarding of contracts in conformity with the legislative or administrative provisions in effect in the member States.

ARTICLE 105

If the Commissariat determines that the execution of all or part of a program is running into difficulties and cannot be executed, as a result, for instance, of an insufficient supply of raw materials, lack of equipment or plant or abnormally high prices, or that its execution cannot be ensured within the required time, it shall notify the Council and seek with it the appropriate means to eliminate those difficulties.

The Council by unanimous vote, in consultation with the Commissariat, shall decide on the measures to be taken.

In the absence of a unanimous decision of the Council on measures envisaged in the previous paragraph, the Commissariat, after consultation with the Governments concerned, shall make recommendations to them in order to ensure the placing and execution of orders within the time limits provided in program and at prices not abnormally high, taking into account the necessity of sharing as equitably as possible the burdens resulting therefrom among the economies of the member countries. The Council, by a two-thirds majority, may give the Commissariat general directives relative to preparing such recommendations.

A member State receiving such a recommendation may, within a ten-day period, notify the Council which shall act thereon.

ARTICLE 106

The Commissariat shall prepare a common program for scientific and technical research in military fields as well as the means of execution of this program. This program shall be submitted to the Council for approval under the same conditions as the common programs for armament, equipment, supply and infrastructure of the European Defense Forces.

The Commissariat shall ensure the execution of the common research program.

ARTICLE 107

1. The production of war materiel, the import and export of war materiel originating in or destined for third countries, measures concerning directly facilities for the production of war materiel, as well as the manufacture of experimental models and technical research on war materiel, are prohibited, except as authorized under the terms of Section 3 below.

2. The categories of war materiel covered by the prohibitions of Section 1 above are defined in Annex I attached to the present Article.

   This Annex may be modified by the Council on the recommendation of the Commissariat or on the Council's own motion, by a two-thirds majority.

3. The Commissariat shall lay down by regulation the procedural rules for the application of the present Article and for the granting of licenses for the production, import and export, and for measures concerning directly facilities for the production of war materiel, as well as for the manufacture of experimental models and for research relating to war materiel.

In the application of this Article the Commissariat shall comply with rules of international law prohibiting the employment of certain instruments of war.

4. The following provisions shall be applicable to the granting of licenses by the Commissariat:

a. The Commissariat shall not grant licenses for items listed in Annex II attached to this Article in strategically exposed areas, except by unanimous decision of the Council.

b. The Commissariat shall not authorize construction of new propellant plants for military purposes except in territories defined by agreement among the governments of the member States. The Commissariat shall make such licenses subject to the appointment by it of a permanent inspector to ensure adherence by the establishments in question to the provisions of this Article. The same procedure shall be applicable to short range guided missiles used for anti-aircraft defense, as these are defined in paragraph 4d of Annex II.

c. As concerns exports, the Commissariat shall grant licenses if it considers that they are consistent with the needs, the internal security and the international commitment, if any, of the Community.

d. In the case of the manufacture of experimental models and technical research concerning war materiel, licenses shall be granted so long as the Commissariat does not feel that such manufacture or research might endanger the internal security of the Community, and unless other directives are given by the Council, as provided in Section 2 of Article 39.

e. The Commissariat shall grant general licenses for the production, import, and export of war materiel required by armed forces of member States not comprising part of the European Defense Forces, and to forces of associated States for whom member States assume defense responsibility. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not make use of them beyond their needs.

f. The Commissariat shall grant general licenses concerning products listed in Annex I, when these are destined for civilian purposes. The Commissariat shall nevertheless ensure that the beneficiaries of such licenses do not employ them for other than such civilian purposes.

5. The regulations provided for in Section 3 above shall be prepared by the Commissariat and submitted for approval by the Council by a two-thirds majority. They may be amended, on the proposal of the Commissariat or a member of the Council, by the Council by a two-thirds majority.

6. At the request of the Commissariat, the Court may decree the following penalties against persons or enterprises violating the provisions of this Article:

In the case of production, import and export of war materiel, penalties and fines may be imposed not exceeding 50 times the value of the products concerned. This maximum may be either doubled or raised up to the equivalent, in national currency, of one million U. S. Dollars in cases of recurrent or particularly serious offenses.

In the case of technical research, the manufacture of experimental models, and measures facilitating directly the production of war materiel, penalties not exceeding, in national currency, the equivalent of 100,000 U. S. Dollars may be imposed. This amount may be raised to the equivalent in national currency, of 1 million U. S. Dollars in cases of recurrent or particularly serious offenses.

ANNEX I TO ARTICLE 107

1. *War Weapons*

   a) Portable firearms, with the exception of hunting weapons and calibres less than 7 mm.
   b) Machine guns
   c) Anti-tank weapons
   d) Artillery pieces and mortars
   e) Anti-aircraft weapons (D. C. A.)
   f) Smoke-screen, gas and flame producing apparatuses.

2. *Munitions and rockets of all types for military use*

   a) Munitions for war weapons defined in Para 1 above and grenades
   b) Self-propelled weapons
   c) Torpedoes of all types
   d) Mines of all types
   e) Bombs of all types

3. *Powder and explosives for military use, including substances primarily used for propulsion by rocket*

   Exempted will be products principally for civilian use, notably: Pyrotechnical compounds; priming explosives: a) fulminate of mercury, b) nitride of lead, c) trinitroresorcinate of lead, d) tetrazene; chlorated explosives; nitrated explosives with dinitrotoluene or with dinitronaphthaline; nitrocelluloses; black powder; hydrogen peroxide with a concentration less than 99%; hydrate of hydogine with a concentration less than 30%.

4. *Armored equipment*

   a) Tanks
   b) Armored vehicles
   c) Armored trains
5. Warships of all types
6. "Military" planes of all types
7. Atomic weapons

8. Biological weapons [1]
9. Chemical weapons [1]

(Definitions for items 7, 8, and 9 will be given in Annex II.)

10. Constituent parts which can be used only in the construction of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.[2]

11. Machines which can be used only for the manufacture of one of the items enumerated in groups 1, 2, 4, 5, and 6 above.

ANNEX II TO ARTICLE 107 [3]

The present annex shall be deemed to include the weapons defined in Paragraphs I–VI and the manufacturing facilities especially designed for their production. Nevertheless, the provisions of Paragraphs II–VI of this annex shall be deemed to exclude any device or assembly, apparatus, production facilities, product and agency utilized for civilian purposes or serving research for scientific, medical and industrial purposes in the spheres of pure and applied science.

I. *Atomic Weapons.*

a. An atomic weapon is defined as any weapon which contains, or is designed to contain or utilize, nuclear fuel or radioactive isotopes and which, by explosion or other uncontrolled nuclear transformation of the nuclear fuel, or by radioactivity of the nuclear fuel or radioactive isotopes, is capable of mass destruction, mass injury or mass poisoning.

b. Furthermore, any part, device, assembly or material especially designed for, or primarily useful in, any weapon as set forth under Paragraph *a*, shall be deemed to be an atomic weapon.

c. Any quantity of nuclear fuel produced in any one year in excess of 500 grammes will be considered material especially designed for, or primarily useful in, atomic weapons.

d. Nuclear fuel as used in the preceding definition includes plutonium, Uranium 233, Uranium 235 (including Uranium 235 contained in Uranium enriched to over 2.1 per cent by weight of Uranium 235) and any other material capable of releasing substantial quantities of atomic energy through nuclear fission or fusion or other nuclear reaction of the material. The foregoing materials shall be considered to be nuclear fuel regardless of the chemical or physical form in which they exist.

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[1] The Commissariat may exempt from the requirement of authorizations chemical and biological substances the use of which is primarily civilian. If the Commissariat decides that it is unable to grant such exemptions, it shall limit the control which it exercises solely to the use of such substances. (Footnote in the original.)

[2] The production of models of, and the technical research concerning, the material defined in paragraphs 10 and 11 above are not subject to the appropriate provisions of Article 107. (Footnote in the original.)

[3] An English version of Annex II was not available for inclusion in S. Execs. Q and R. The version printed here is from the Department of State *Bulletin*, Oct. 11, 1954, pp. 516–518; also found in *Treaty Establishing the European Defense Community and Related Documents* (Office of the U. S. Representative in Europe, Paris, Jan. 26, 1953), pp. 21–22.

II. *Chemical Weapons.*

a. A chemical weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, the asphyxiating, toxic, irritant, paralysant, growth-regulating, anti-lubricating or catalyzing properties of any chemical substance.

b. Subject to the provisions of Paragraph *c*, chemical substances, having such properties and capable of being used in the equipment or apparatus referred to in Paragraph *a*, shall be deemed to be included in this definition.

c. Such apparatus and such quantities of the chemical substances as are referred to in Paragraphs *a* and *b* which do not exceed peaceful civilian requirements shall be deemed to be excluded from this definition.

III. *Biological Weapons.*

a. A biological weapon is defined as any equipment or apparatus expressly designed to use, for military purposes, harmful insects or other living or dead organisms, or their toxic products.

b. Subject to the provisions of Paragraph *c*, insects, organisms and their toxic products of such nature and in such amounts as to make them capable of being used in the equipment or apparatus referred to in *a* shall be deemed to be included in this definition.

c. Such equipment or apparatus and such quantities of the insects, organisms and their toxic products as are referred to in Paragraphs *a* and *b* which do not exceed peaceful civilian requirements shall be deemed to be excluded from the definition of biological weapons.

IV. *Long-range Missiles, Guided Missiles and Influence Mines.*

a. Subject to the provisions of Paragraph *d*, long-range missiles and guided missiles are defined as missiles such that the velocity or direction of motion can be influenced after the instant of launching by a device or mechanism inside or outside the missile, including V-type weapons developed in the recent war and subsequent modifications thereof. Combustion is considered as a mechanism which may influence the velocity.

b. Subject to the provisions of Paragraph *d*, influence mines are defined as naval mines which can be exploded automatically by influences which emanate solely from external sources, including influence mines developed in the recent war and subsequent modifications thereof.

c. Parts, devices or assemblies specially designed for use in or with the weapons referred to in Paragraphs *a* and *b* shall be deemed to be included in this definition.

d. Proximity fuses, and short-range guided missiles for anti-aircraft defense with the following maximum characteristics, are regarded as excluded from this definition:

Length, 2 meters;
Diameter, 30 centimeters;
Velocity, 660 meters per second;
Ground range, 32 kilometres;
Weight of war-head, 22.5 kilogrammes.

V. *Naval Vessels other than Minor Defensive Craft.*

Naval Vessels other than minor defensive craft mean:

a. Warships over 1,500 tons displacement.
b. Submarines.
c. All warships powered by means other than steam, diesel or petrol engines or gas turbines or jets.

VI. *Military Aircraft.*

Complete military aircraft and components thereof, as listed below:—

a. Air frames—center section spars, wing panel spars, longerons.
b. Jet engines—centrifugal impellors, turbo discs, burners, axial flow center shafts.
c. Reciprocating engines—cylinder blocks, supercharger impellors.

ARTICLE 107 BIS

The regulations provided for in Section 3 of Article 106 [107] shall be submitted to the Council within three months after the entry into effect of the Treaty. In the interim, the Commissariat shall grant authorizations in appropriate cases.

ARTICLE 108

1. Without prejudice to the provisions of Article 114 below the Commissariat may, as concerns the war materials defined in the Annexes to Article 107, address itself directly to the enterprises in question for information necessary to the fulfillment of its mission; the interested governments shall be kept informed.

The Commissariat may cause its agents to proceed to necessary verifications.

2. At the request of the Commissariat, the Court, subject to the provisions of the Protocol concerning its Code, may levy against an enterprise which does not furnish information requested or which knowingly furnishes false information, fines not to exceed one percent of the plant's annual turnover and daily penalty payments not to exceed five percent of the average daily turnover per day of delay.

ARTICLE 109

In order to aid the Commissariat in the performance of the tasks provided for in Articles 101 and 102, a Consultative Committee shall be established. It shall be composed of at least 20 and, at the most, 34 members. It shall include, in particular, representatives of producers and of labor; the numbers of the producers' representatives and of the representatives of labor shall be equal.

The Committee shall include nationals of each of the member States.

The members of the Consultative Committee shall be appointed by the Council, by a two-thirds majority. They shall be designated in their personal capacities for a term of two years. No order or instruction from organizations which have nominated them shall be binding on them.

The Consultative Committee shall designate from among its members its President and its executive bureau, for a period of one year. The Committee shall draw up its own internal regulations.

The compensation allowed members of the Consultative Committee shall be set by the Council on the proposal of the Commissariat.

ARTICLE 110

The Consultative Committee shall be consulted by the Commissariat concerning problems of an economic and social nature raised by the preparation or execution of the common armament, equipment, supply and infrastructure programs. The Commissariat shall submit to the Consultative Committee any information needed in the latter's deliberations.

The Consultative Committee shall be convened by its President upon the request of the Commissariat.

Minutes of the discussions of the Consultative Committee shall be transmitted to the Commissariat and the Council at the same time as are the Committee's formal opinions.

ARTICLE 111

In consultation with the governments of the member States, the Commissariat shall prepare plans for the mobilization of the economic resources of the member States.

TITLE VI—GENERAL PROVISIONS

ARTICLE 112

The member States undertake to take all general or specific measures appropriate to ensure the carrying out of obligations imposed by decisions and recommendations of institutions of the Community; they undertake also to facilitate the accomplishment by the Community of its mission.

The member States undertake to refrain from acts incompatible with the provisions of the present Treaty.

ARTICLE 113

All the institutions and services of the Community and of the member States shall collaborate closely concerning questions of common interest.

They shall lend each other mutual aid in administrative and judicial matters in accordance with agreements to be made among them.

ARTICLE 114

1. The member States undertake to place at the disposal of the Commissariat all information necessary for the accomplishment of its Mission. The Commissariat may request the member States to cause necessary verifications to be made. Upon the request of the Commissariat, which shall be supported by a statement of reasons, its agents shall be permitted to participate in making these verifications.

The Council, by a two-thirds vote, may give general directives concerning the application of the preceding paragraph.

If a member State believes that the information requested from it by the Commissariat is not needed for the accomplishment of the latter's mission, it may, within ten days, request a ruling from the Court. The Court shall rule on a matter of urgency. While such a request is pending the information in question need not be made available.

2. The institutions of the Community, their staffs and their agents shall not divulge information which is in the nature of a professional or military secret.

Any violation of the provisions of the preceding paragraph may, if damage has resulted from it, be ground for a suit in the Court.

ARTICLE 115

Within the limits of its competence, agents of the Commissariat charged by it with supervisory missions shall enjoy, as against individuals or public or private enterprises on the territories of member States, to the extent necessary for the accomplishment of their mission, such rights and powers as are granted by the laws of such States to agents of comparable departments of the governments. Missions and the status of the agents charged with them shall be duly communicated to the State in question.

Officials of such State may, at the request of such State, or of the Commissariat, assist agents of the Commissariat in carrying out their mission.

ARTICLE 116

Under the terms of an annexed Protocol, the Community shall enjoy on the territories of the member States the privileges and immunities necessary to the accomplishment of its mission.

ARTICLE 117

If the Commissariat determines that a member State has failed to carry out an obligation imposed upon it by the present Treaty, it shall so inform that State and invite its comments; such comments shall be made within a period of one month.

If at the expiration of an additional one-month period there persists a difference of opinion between the Commissariat and the State concerned, either shall have recourse to the Court. The latter shall decide the case as a matter of urgency.

The Council shall be informed of the decision of the Court.

ARTICLE 118

The seat of the institutions of the Community shall be determined by agreement among the member States.

ARTICLE 119

Without prejudice to the provisions of Chapter V of the Military Protocol,[1] the language or languages to be employed by the institutions of the Community shall be determined by unanimous decision of the Council.

ARTICLE 120

1. The present Treaty is applicable to the European territories of the member States.

2. By decision of the Commissariat taken with the unanimous concurrence of the Council,

a) elements of the European Defense Forces may, with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization, be stationed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Article 6 of the North Atlantic Treaty;[2]

b) schools, training centers and other establishments of the Community may be installed in territories, other than those defined in Section 1 of this Article, which are included in the area defined in Section 2a of this Article, as well as in Africa north of the Tropic of Cancer.

3. Elements of the European Defense Forces, as well as schools, training centers and other establishments of the Community, may be stationed in territories other than those defined in Sections 1 and 2 of this Article by virtue of a unanimous decision to this effect taken by the Council after parliamentary approval, if and as required by the constitutional rules of each member State. This decision of the Council shall be taken after consultation with the North Atlantic Council and with the agreement of the competent Supreme Commander responsible to the North Atlantic Treaty Organization.

4. Member States are authorized to recruit for the needs of contingents furnished by them to the European Defense Forces in territories other than those defined in Section 1 of this Article which are subject to their jurisdiction or for which they assume international responsibility.

ARTICLE 121

The member States undertake not to enter into any international agreement incompatible with the present Treaty.

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[1] *Infra*, p. 1162.

[2] *Supra*, p. 813.

ARTICLE 122

The member States undertake not to permit any treaties, conventions or declarations existing among themselves with a view to settling differences concerning the interpretation or application of the present Treaty by means of a procedure other than that provided by the present Treaty to prevail over the present Treaty.

ARTICLE 123

1. In case of serious and urgent necessity, the Council shall assume, or confer upon institutions of the Community or other appropriate organizations, temporary powers necessary to meet the situation, within the limits of the general mission of the Community and with view to ensuring the achievement of its objectives; this decision shall be taken by unanimous vote.

A serious and urgent necessity may result either from the situations provided for in Section 3, Article 2 of the present Treaty, in the Treaty between the member States and the UK of the same date [1] or in the protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization, [2] or from a declaration to that effect adopted by unanimous vote of the Council.

2. The provisional measures taken pursuant to Section 1 of this Article shall cease to be effective on the date on which the state of emergency is declared by the Council, by two-thirds vote, to be at an end.

The normally competent institutions shall, in the manner provided for in this Treaty, decide concerning the maintenance of conditions resulting from these measures.

3. The present article does not affect the placing in action of the European Defense Forces for the purpose of meeting an aggression.

ARTICLE 124

In any case not provided for in the present Treaty in which a decision or recommendation of the Commissariat appears necessary to ensure the proper functioning of the Community and the realization of its purposes within the limits of its general mission, such decision or recommendation may be taken with the unanimous concurrence of the Council.

If the Commissariat fails to take the initiative, the matter may be referred to the Council by one of the member States. The Council may by unanimous vote require the Commissariat to make such decision or recommendation. If the Commissariat fails to take action pursuant to such decision of the Council within the time limit set therein, the Council shall be empowered to take such measures itself by a simple majority.

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[1] *Infra*, doc. 22.

[2] *Infra*, doc. 23.

ARTICLE 125

If unforeseen difficulties which are brought out by experience in the application of the present Treaty require an adaptation of the rules concerning the exercise by the Commissariat of the powers which are conferred upon it, appropriate modifications may be made in such powers by unanimous decision of the Council provided that such modifications do not bring into question the provisions of Article 2 or modify the relationship among the powers of the Commissariat and of the other institutions of the Community.

ARTICLE 126

The Government of each member State and the Commissariat may propose amendments to the present Treaty. Such proposals shall be submitted to the Council. If the Council, acting by a two-thirds ajority, approves, a conference of representatives of the Governments of the member States shall be immediately convoked by the President of the Council, with a view to agreeing to any modifications to be made in the provisions of the Treaty.

Such amendments shall enter into force after having been ratified by all the member States in conformity with their respective constitutional processes.

ARTICLE 127

As used in the present Treaty, the words "the present Treaty" shall mean the provisions of this Treaty and those of the Military Protocol,[1] of the Protocol concerning Jurisdiction,[2] of the Protocol concerning Military Criminal Law,[3] of the Financial Protocol,[4] of the Protocol concerning the Remuneration of Civil and Military Personnel and their Pension Rights,[5] of the Protocol concerning the Grand Duchy of Luxembourg,[6] of the Protocol concerning Relations between the European Defense Community and the North Atlantic Treaty Organization[7] and of the Protocol concerning Guarantees between the European Defense Community and the North Atlantic Treaty Organization.[8]

ARTICLE 128

The present Treaty is concluded for a period of 50 years from the date of its entry into effect.

If, before the establishment of a European federation or confederation, the North Atlantic Treaty should cease to be in effect or there should be an essential modification in the membership of the North Atlantic Treaty Organization, the High Contracting Parties shall examine together the new situation which shall thus have arisen.

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[1] *Infra.*

[2] *Infra*, doc. 26.

[3] Not reprinted here.

[4] *Infra*, doc. 18.

[5] Not reprinted here.

[6] Not reprinted here.

[7] *Infra*, doc. 19.

[8] *Infra*, doc. 23.

ARTICLE 129

Any European State may request to accede to the present Treaty. The Council, after having obtained the opinion of the Commissariat, shall act by unanimous vote, and shall also fix the terms of accession by unanimous vote. Accession shall become effective on the day on which the instrument of accession is received by the Government acting as depository of the Treaty.

ARTICLE 130

The present Treaty, drawn up in a single original, shall be deposited in the archives of the government of the French Republic, which shall transmit a certified true copy to each of the governments of the other signatory States.

As soon as it shall have assumed its functions, the Council shall establish authentic texts of the present Treaty in the languages other than that of the original. In the case of discrepancies, the text of the original shall govern.

ARTICLE 131

The present Treaty shall be ratified and its provisions applied in accordance with the constitutional rules of each member State. The instruments of ratification shall be deposited in the archives of the Government of the French Republic, which shall notify the Governments of the other member States when the instruments have been so deposited.

ARTICLE 132

The present Treaty shall enter into effect on the date of the deposit of the instrument of ratification of the last signatory nation to accomplish that formality.

In the event that all the instruments of ratification have not been deposited within a period of six months following the signature of the present Treaty, the governments of the States which have made such deposit shall consult among themselves on the measures to be taken.[1]

In witness whereof the undersigned Plenipotentiaries have affixed their signatures at the end of the present Treaty and have thereto affixed their seals.

Done at Paris the twenty-seventh day of May one thousand nine hundred fifty-two.

. . . .

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[1] For subsequent developments, see the Protocols of Oct. 23, 1954, to the Brussels Treaty (*supra*, docs. 3–6) and the Brussels Conference communiqué of Aug. 22, 1954 (*infra*, doc. 30).

17. MILITARY PROTOCOL, MAY 27, 1952 [1]

Desirous of assuring application of Articles 9 and 15 of the Treaty, the member States of the European Defense Community have agreed to the following:

Chapter I—Basic Units

ARTICLE 1—LAND FORCES

1. The basic unit, which shall be of homogeneous nationality, is the "Groupement" in which the action of the various elements comprising the land forces shall be combined on an organizational level.

2. Three principal types of Groupements are defined hereinafter:

a. Infantry Groupement
b. Armored Groupement
c. Mechanized Groupement

Their general structure and their total complement are shown in Tables 1 (A), 1 (B), and 1 (C) below.

TABLE 1 (A)

General Structure and Total Complement of the Infantry Groupement Command

Command

1 Groupement General Staff and 1 Headquarters Company

Arms

1 Reconnaissance squadron
3 Infantry regiments of 3-battalion strength each
1 Tank battalion [1]
1 Groupement artillery motorized in 5 groups: [1]
  3 "light" howitzer groups
  1 "medium" howitzer group
  1 anti-aircraft artillery group
1 motorized engineering battalion
1 Signal Company

Services

1 Equipment Company
1 Supply Company
1 Medical battalion
Military police and traffic guides
Personnel staff (Company-cadres)

Total Complement of Infantry Group

Maximum peacetime complement	13, 000[2]
Wartime complement	15, 600

[1] "Battalion" or "Regiment": for all units of the armed forces and the Cavalry, the terminology adopted will take national traditions into account; in the case of the Artillery, "Group" corresponds to the U. S. term "Battalion." [Footnote in original.]

[2] Not including cover units. [Footnote in original.]

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 206–217.

TABLE 1 (B)

General Structure and Total Complement of Armored Groupement

Command

1 Groupement General Staff and 1 Headquarters Company
3 Sub-Groupement General Staffs

Arms

1 Reconnaissance battalion
4 Tank battalions
4 Infantry battalions forming a corps (if possible, mechanized "tout-terrain". Otherwise, and at the minimum, 2 mechanized battalions and 2 battalions carried as "tout-terrain")
1 Groupement Artillery (self-propelled) in 5 groups: [1]
  3 "light" howitzer groups
  1 "medium" howitzer group
  1 anti-aircraft artillery group
1 Mechanized Engineering Battalion
1 Signal Company (reinforced)

Services

1 Equipment Battalion
1 Supply Battalion
1 Medical Battalion
Military Police and traffic guides (reinforced)
Personnel staff (Company-cadres)

Total Complement of Armored Group

Maximum peacetime complement	12, 700 [2]
Wartime complement	14, 600

[1] See Table 1 (A). [Footnote in original.]
[2] Not including cover units. [Footnote in original.]

TABLE 1 (C)

General Structure and Total Complement of Mechanized Groupement

Command

1 Groupement General Staff and 1 Headquarters Company
3 Sub-Groupement General Staffs

Arms

1 Reconnaissance battalion [1]
3 Tank battalions [1]
6 Infantry battalions forming a corps (carried as "tout-terrain")
1 Groupement Artillery, motorized in 5 groups (same type as Artillery of Infantry Groupement)[1]
1 Motorized Engineering Battalion
1 Signal Company (reinforced)

Services

1 Equipment Battalion
1 Supply Company
1 Medical battalion
Military police and traffic guides
Personnel staff (Company-cadres)

Total Complement of Mechanized Group

Maximum peacetime complement	12, 700 [2]
Wartime complement	14, 700

[1] See Table 1 (A).
[2] Not including cover units.

3. The Groupements and Brigades of the "Mountain" type already in existence shall retain their present form. The other types of single-nationality Groupements which it will be necessary to form for operational requirements shall be defined by a decision of the Commissariat.

In the event that the complement of these latter Groupements exceeds that of the types defined above, the complement figure shall be subject to the unanimous approval of the Council.

ARTICLE 2—AIR FORCES

1. The European Air Forces shall comprise a single type of basic Unit of uniform structure. Only the personnel and equipment shall vary according to the speciality of the Unit.

The basic Unit shall be as mobile as possible.

2. Each Unit, commanded by a Chief assisted by a General Staff, shall include the following three Groups:

> A combat Group composed in principle of three identical squadrons and constituting the operational element of the Unit;
>
> A technical Group composed of a maintenance squadron and a supply squadron, the purpose of which is to ensure the upkeep, repair (second echelon) and supply requirements of the Unit;
>
> A general purpose Group ("Groupe des moyens generaux") to serve the general housekeeping requirements of the Unit at an air base.

3. The personnel complement and the equipment are shown in the following table.

Table on Air Force Personnel Complement and Equipment of Basic Units

1. The average complement of the basic Unit shall be as follows:

Maximum peacetime complement	1, 300 men [1]
Wartime complement	2, 000 men

2. The equipment of the basic Units shall be as follows:

Tactical pursuit Interceptors	75 planes (25 planes per squadron)
All weather pursuit	26 planes (12 planes per squadron)
Reconnaissance	54 planes (18 planes per squadron)
Light bombers Transports	48 planes (16 planes per squadron)

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[1] Barring special necessities justifying a modification of this complement.

ARTICLE 3—NAVAL FORCES

The Naval Forces shall be organized in groupements of homogeneous nationality, broken down into subordinate elements (groups, flotillas, fleets, etc.) and corresponding to one operational sector or one tactical mission.

ARTICLE 4

Insofar as the general lines of their organization and their personnel complement are concerned, the types of basic Units of the European Defense Forces may be modified only in accordance with the provisions of Article 44 of the Treaty.

The provisions included in the present Chapter in no way prejudge the details of the future organization, and necessary adjustments may be made by a decision of the Commissariat at the time of establishment of the rules of application.

Chapter II—General Organization and Formation of the European Defense Forces

ARTICLE 5

The EDF shall be organized into:

Central institutions
Territorial military commands
Troop commands

ARTICLE 6

The *central institutions* of the Commissariat shall be established as soon as the Treaty becomes effective. They shall carry out the build-up operations progressively in such a way that these operations shall not entail any diminution in effectiveness as regards either the Forces assigned to the Community or those remaining under national authority.

In this connection, the Central Headquarters shall, as of the date of entry into effect of the Treaty, assign to each of the member States a Deputy who shall have the responsibility of directing the build-up of the contingent furnished by that State, according to the instructions and under the supervision of the Commissariat. This Deputy shall be a citizen of the country in question and shall have at his disposal a detachment of the Central Headquarters which shall be integrated according to command, instruction and liaison requirements.

ARTICLE 7

1. A European territorial military organization shall be constituted by this Deputy, through creation, where none exists, of a territorial military system and by adaptation where one exists.

This organization shall have European Territorial Military Regions as its basis and the boundaries of these Regions shall be fixed and modified by the Commissariat with the concurrence of the Council by unanimous vote.

The Deputy of the Central Headquarters shall have at his disposal the Commands of these Regions, together with the facilities of the detachment from the Central Headquarters, to set up the contingents for which he is responsible.

2. The European territorial military organization thus constituted shall, at the same time that it contributes to formation of contingents, be responsible for fulfilling the needs of European and national forces. It shall operate, also, as needed, for the benefit of NATO forces. Finally, it shall cooperate with services the competence of which remains national.

This organization shall be integrated according to the type of troops that they serve.

While of European status, it is submitted to two authorities, that is, to the Commissariat and to the appropriate government departments. As concerns the latter, the Deputy of Central European Headquarters shall be subject to their orders in matters within their competence.

Internal police forces may use the services of the European Military Territorial Organization.

ARTICLE 8

The Member States shall, as of the date of entry into effect of the Treaty, and to the extent that they do not already have such organizations, establish the services and institutions necessary for the accomplishment of their obligations under the Treaty.

The Minister responsible for matters which remain national in each Member State or charged with European Defense Affairs shall have at his disposal the Deputy of the Central European Headquarters and the European Territorial Commands for the exercise of his functions.

ARTICLE 9

1. *European Troop Commands*, that is, *integrated* Commands shall be formed:

Some of them as soon as the Treaty becomes effective, to command formations already existing and prepare the integration of other formations;

Others within a very short period of time, so that they can, while they are being organized, perform functions of supervision in the preparation of units which will subsequently incorporate [*sic*].

2. *Transfer of units* to Troop Commands shall take place when these Commands having been formed and being in condition to perform their functions, the elementary units have attained a degree of preparation permitting them to be grouped in Large Units.

In each case the Commissariat shall decide on the transfer.

ARTICLE 10

The period of time allotted for the formation of the forces at the end of which the mission of the Deputy from Central Headquarters ends shall be fixed by decision of the Commissariat. It shall not exceed eighteen months from the date of entry into effect of the Treaty except with the unanimous concurrence of the Council.

The final organization of the Territorial Commands to be then put into effect in the European Defense Community shall be determined, before the expiration of the period of time mentioned in the preceding paragraph, by decision of the Commissariat taken with the concurrence of the Council, the latter being given by two-thirds majority vote.

Chapter III—Personnel

ARTICLE 11

The Commissariat shall elaborate the texts relative to the recruiting and organization of personnel of the European Defense Force within the framework of the general principles defined below.

Until such time as these texts go into effect, the pertinent legislation and regulations of the member States shall remain in effect.

SECTION I—RECRUITMENT

ARTICLE 12—GENERAL CONSIDERATIONS

1. All male citizens of the member States shall be subject to military service unless physically, mentally or morally unfit, and except as provided in the Constitutions or laws of the member States.

2. Decisions on the length of service shall be taken by unanimous vote of the Council.[1]

In all the member states, the period of active service shall be fixed at a minimum of eighteen months. This minimum can be changed by unanimous vote of the Council.

The same conditions as for active service shall apply for regulatory services in the reserves.

3. The operations for building up and supplying the Armed Forces shall comprise the following:

the census and classification of citizens of military age;
the call to active service;
enlistment and re-enlistment of personnel serving on a long-term basis;
administration of reserves.

These three categories of operations shall be divided between the national organizations and the Commissariat.

4. The European Defense Forces shall be recruited as follows:

By total or partial conscription of age groups;
By enlistments (on a long-term basis or by voluntary anticipation of conscription) and by re-enlistments.

5. In the event that the numbers of citizens fit for military service exceeds the requirements of the Armed Forces, the necessary reduction shall be made by means of exemptions based on social, economic and professional considerations appropriate in each member State, although such action shall not impair the military effectiveness of the contingents.

Citizens exempted from active service shall remain subject to the other military obligations of their age class.

ARTICLE 13—CALL TO ACTIVE DUTY

1. The census lists shall be drawn up by the competent services, on the basis of the principles previously laid down.

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[1] See the (first) Special Protocol, May 27, 1952; *infra*, doc. 20.

2. The persons whose names are on the census lists shall appear before a review board which shall determine their aptitude for service.

3. These persons shall be called to active duty in various numbers over a period of time depending upon requirements and on the basis of their dates of birth, in the year in which they reach the age specified for entry into military service.

Temporary deferments may be granted up to a certain age for social, economic and professional reasons appropriate in each member State as well as for residence abroad, provided the military effectiveness of the contingents is not impaired thereby.

ARTICLE 14—RECRUITMENT OF OFFICERS AND NON-COMMISSIONED OFFICERS

1. The detailed methods for the recruitment of Officers and Non-Commissioned Officers shall be drawn up by the Commissariat.

The general conditions to be fulfilled for acceding to each of these categories are given below:

2. *Active Officers* are recruited from among the following:

Candidates fulfilling the required conditions of aptitude who have completed the legal period of troop service.

Non-commissioned Officers;

Reserve officers admitted to active cadres.

3. *Reserve officers* are recruited from among the following:

Candidates having shown sufficient aptitude following the appropriate training courses either during the period of service or during periods in the reserves;

Active officers who have resigned or retired.

4. *Active non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During the period of enlistment or reenlistment, in the case of volunteers;

During the period of required military service, in the case of conscripts.

They may become career non-commissioned officers.

5. *Reserve non-commissioned officers* are recruited from among the candidates showing sufficient aptitude:

During or at the end of their required military service, in the case of conscripts;

During the period of enlistment or reenlistment or at the end of this period, in the case of volunteers;

During periods in the reserves, in the case of personnel having been released from active duty.

SECTION II—DISCIPLINE

ARTICLE 15

As provided under the provisions of Article 78 of the Treaty, a single body of General Regulations on Discipline shall be drawn up, applicable to the entire European Defense Force. National regulations shall remain in effect until the common regulations are approved. These common regulations shall be drawn up as rapidly as possible and shall be applied simultaneously to all contingents.

ARTICLE 16

1. Members of the European Defense Force shall conduct themselves in a manner befitting the high mission with which they are entrusted. They shall respect civil laws and regulations and local customs.

They shall abstain from any act tending to offend the religious convictions of others.

All appropriate measures shall be taken to enable them to practice their religion.

2. Members of the European Defense Force have the same obligations toward the Community and its command echelons as military personnel of national armies normally have toward their Government and their own command. The most important of these duties are:

loyalty to the Community;
obedience to the laws and regulations of this Community;
obedience to the European military leaders, regardless of nationality.

ARTICLE 17

1. Incorporation of units into the European Defense Force shall be marked by a solemn demonstration of allegiance to the Community in which the traditions of each contingent shall be taken into account.

2. The members of the European Defense Force shall render honor to the flags, standards, and banners of the European Defense Force and of the member states, as well as to the European emblem.

ARTICLE 18

The subordinate shall obey his superiors for the good of the service to the extent connected with observance of the law, customs of war, the execution of military regulations; he may appeal any measures considered irregular or any punishment which he deems unjustified under the rules laid down in the General Regulations on Discipline, and subject to the provisions of the Military Code of Justice.

ARTICLE 19

The superior must always set an example for his subordinates both in his respect for discipline and his observance of the regulations.

The superior should extend the benefit of his experience to his subordinates, should have their material and moral interests at heart, and should avoid any measures which might offend their dignity.

He shall be expected to leave to each subordinate the greatest possible initiative and shall not interfere in the exercise of command of subordinate authorities.

ARTICLE 20

A standard regulation shall be drawn up relative to the nature of rewards and punishments, the definition of infractions, and the determination of the rights of each person in such matters.

SECTION III—RANK AND ASSIGNMENT

ARTICLE 21—GENERAL CONSIDERATIONS

1. The basic texts relative to rank and assignment shall cover the following in particular:

lists of cadre quotas ("tableaux d'encadrement"),
rules for advancement,
rules assuring a career service to professionals,
principles of administration and management of personnel.

The Commission shall prescribe the methods of applying the above texts.

2. The number of ranks is fixed as follows:

4 for enlisted men,
5 for non-commissioned officers,
3 for junior officers,
3 for senior officers,
4 for general officers.

ARTICLE 22—PROVISIONS GUARANTEEING RANK AND ASSIGNMENT

1. Members of the European Defense Force may not lose their rank or assignment or be struck from Army rosters except for specified reasons.

2. Appropriate provisions shall be included in the General Regulations on Discipline and the Military Code of Justice.

These provisions shall be based on the following general considerations:

a) loss of rank may be decided only by judgment of a Tribunal or by way of disciplinary punishment under certain conditions;

b) temporary suspension from assignment as a disciplinary measure or for any other serious reason may occur only in strictly defined cases;

c) the striking of personnel from Army rosters is possible only in the following cases:

resignation, within the provisions of the regulations in effect;

attainment of the age limit or the end of the service period;

physical disability, professional incompetence, grave misdemeanor or habitual misconduct;

conviction by a legally recognized court.

d) In the case of officers and non-commissioned officers, measures affecting rank or assignment pursuant to a disciplinary measure may be taken only after the report of a Board of Inquiry.

ARTICLE 23—OFFICERS

1. Advancement shall be governed by the basic texts drawn up by the Commissariat within the framework of the provisions of Article 31 of the Treaty.

Officers will compete among themselves for advancement within their own contingent, up to and including the rank of General of Division.

2. Appointments to the command of a basic unit; to the rank of general officer, with command over units of different nationality; and to certain higher position in the Commissariat as determined by the Council, shall be conferred by the Commissariat with unanimous concurrence of the Council.

3. All other appointments are conferred by the Commissariat, taking account of the recommendations of the commands concerned.

Decisions on appointments below the rank of colonel may be delegated to corps commanders.

4. The list of appointments to each rank shall be determined by the tables of organization.

5. The over-all distribution of appointments in integrated units shall be in conformity with the tables of organization for the member States.

ARTICLE 24—NON-COMMISSIONED OFFICERS AND MEN

Advancement: Advancement of non-commissioned officers and men shall take place within each contingent in conformity with the general instructions issued by the Commissariat.

Assignment: Similarly, the Commissariat shall specify in its instructions the general rules for assignment of non-commissioned officers.

ARTICLE 25—DETACHMENT OF PERSONNEL

Personnel of the European Defense Force may be detached individually from this Force for missions outside the Defense Community. For the duration of the period of detachment, the Community shall be relieved of responsibility for their upkeep, and shall no longer have direct authority over them, but shall continue to maintain their service records with those of their original organization according to rules to be determined.

Chapter IV—Principles Concerning Standardization of Doctrines and Methods; Schools

ARTICLE 26—STANDARDIZATION OF DOCTRINES AND METHODS

1. In conformity with Article 73 of the Treaty, the training and the conditioning of the European Defense Force shall be carried out on the basis of a common doctrine and uniform methods, drawn up in cooperation with the appropriate N. A. T. O. organizations and according to its directives.

2. This doctrine and these methods will be the subject of common regulations applicable to all contingents comprising the European Defense Force.

ARTICLE 27—SCHOOLS

1. The following shall be created as soon as the Treaty goes into effect:

Courses for General Officers and General Staff Officers;

Courses for Officers called to the following Commands:
- Land forces: Basic unit and Regiment
- Air forces: Equivalent units

Courses for School Commanders and their principal staff instructors;

Courses for liaison officers of at least bilingual ability;

Courses for interpreters;

Courses for training certain cadres and specialists essential to the European Defense Community as a whole (Signal, Radar, Air Support, Air and Anti-Aircraft Defense, Amphibious Operations, etc.).

These courses shall be organized by the Commission and placed under its direct responsibility. They shall be on an inter-service basis whenever this may prove necessary.

2. As soon as possible and in accordance with the needs of the Community, all Schools in existence on the effective date of the Treaty shall become European, with the exception of those which are necessary for the formation and training of armed forces which remain national by virtue of the Treaty.

Schools to be created by the Community shall be European from the date of their establishment.

All such schools shall be subject to the following general rules:

development of the spirit of European cooperation;

inspection by the appropriate organizations of the Commissariat;

synchronized formation and training phases in order to achieve similar training results, with the programs being drawn up according to the directives issued by the Commissariat;

organization of joint instruction periods to be developed to the fullest extent possible;

intensive teaching of languages.

Advanced training schools shall be integrated.

Officer training schools and service schools shall also be integrated. They may, however, consist of sections of a single nationality to facilitate instruction.

On a transitional basis, and for as brief a period as possible, officer training schools and service schools shall operate under the jurisdiction and the responsibility of the Commissariat, the direction of such schools being integrated and the teaching staffs and students of a single nationality if found desirable. In this latter case, such training shall take place in the country of origin.

Schools for the formation of certain categories of non-commissioned officers and specialists shall be subject to the same regulations as the officer training schools and the service schools.

3. The organization of schools and teaching establishments in the European Naval Force shall be effected within the general framework of the principles defined above, taking into account the special characteristics of this Force.

4. As concerns countries with more than one official language, the application of the measures in the present Chapter shall be subject to the provisions of Article 74 of the Treaty.

Chapter V—Use of Languages

ARTICLE 28

1. Every member of the European Defense Forces shall employ his national language, subject to the provisions of this chapter.

2. Measures shall be taken to promote, within the European Defense Community, the study of the various national languages of the member states, in accordance with rules to be determined when the curriculum of the European schools is established.

3. In the event that knowledge of an auxiliary language shall be rendered necessary by practical considerations, such auxiliary language shall be taught in the basic schools in a manner to be determined by the Commissariat with the unanimous concurrence of the Council.

ARTICLE 29

1. By "reference language" is meant the language which shall prevail in case of misunderstanding or difficulty.

The reference language shall be the language of the authority from which issue the orders, instructions, etc. For all training commands, the reference language shall be that of the command. French shall be the reference language of the Commissariat.

2. Communications made to a subordinate echelon shall be in the language of that echelon; in principle, such communications should also be made in the reference language.

3. Communications made to a higher echelon shall be in the language of the echelon in which the communications originated.

4. Communications between echelons not in the same chain of command shall be in the language of one or the other of them, as may prove most practical.

In case of difficulty, the common auxiliary language shall be used.

5. The auxiliary language shall be considered as an alternative language to be used obligatorily for all procedural communications (radio, codes, passwords, etc.) or in case of difficulties in use of the other languages.

18. FINANCIAL PROTOCOL, MAY 27, 1952 [1]

The High Contracting parties,

Desirous of completing and defining the procedures for applying the financial provisions of the Treaty instituting the European Defense Community,

Have agreed as follows:

TITLE I—PREPARATION OF THE COMMON BUDGET

ARTICLE 1

The Commissariat prepares the budget. For this purpose there will be a Finance Administration empowered to establish the estimate of receipts and to centralize the expenditures proposed by the responsible services and which can be modified with the agreement of the latter. This Administration shall, at the proper time, give notice of the procedures and the dates on which expenditure estimates must be submitted. These estimates must be supported by appropriate documentation.

The Financial Controller shall give his opinion on the draft budget.

TITLE II—CONTENT OF THE COMMON BUDGET

ARTICLE 2

The common Budget may include an ordinary section and an extraordinary section, the latter being characterized by either the extraordinary nature of the expenditure or the extraordinary nature of the receipt.

ARTICLE 3

Expenditures entered in the common Budget shall be classified according to the principal services of the Community and according to the nature of the expenditure.

Within these classifications, expenditures shall be grouped in chapters and each chapter shall include only expenditures of the same nature. If necessary, chapters may be subdivided into articles.

ARTICLE 4

The draft Budget must give all information needed to appraise the amount and the purpose of the expenditure. To the extent that it is not contrary to military secrecy, such information shall be given in budgetary documents which are made public.

ARTICLE 5

The common Budget shall cover all of the receipts and expenditures of the Community without there being any offsetting of a receipt by an expenditure or vice versa. The Budget shall not show attribution of a receipt to an expenditure, with the possible exception of the extraordinary section.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 217–225.

ARTICLE 6

For the execution of the common armament, equipment, supply and infrastructure programs extending over several years, the Budget carries the authorizations and estimates necessary for the whole program in the form of program authorizations as well as in the form of payment authorizations for the cash expenditures of this program within the year in question.

ARTICLE 7

An annexed document is included in the Budget which shall indicate the countries in which in principle the different expenditures are to be made.

ARTICLE 8

In application of Article 89 of the Treaty, the Commissariat may, with the agreement of the Financial Controller, shift budgetary credits to take care of expenditures less than 10,000 accounting units and which do not entail commitments on the part of the Community covering several fiscal years.

ARTICLE 9

There can be inscribed in the receipts and expenditures of the Budget sums which are not destined for the payment of the expenditures of the Community itself. These sums, which only transit the common budget, are recorded in a special section.

The Community, which does not exercise any control whatsoever over the use of these sums and which does not have the obligation for their financing, is discharged of all responsibility involved in the transit by remitting the sums to the recipients.

ARTICLE 9 BIS

The Council shall conduct the negotiations concerning support costs which are provided for in the Treaty signed at Bonn on 26 May 1952. The Council may, by unanimous vote, delegate this function to the Commissariat. Decisions to be taken as a result of these negotiations shall be taken by unanimous vote.

ARTICLE 10

The payment credits which are not utilized at the end of the year shall be annulled unless there was provision for the possibility of a carryover at the time the Budget was voted.

If there is a deficit at the close of the fiscal year, a budgetary credit shall of necessity be provided, either in the current Budget or in exceptional cases in the budget following the current budget, in order to cover such a deficit.

If there is a surplus, it shall be paid into a reserve fund. The total of this reserve fund shall not exceed ⅒ of the total of the highest budget during the last five years. Use of the assets of the reserve fund shall be decided within the framework of the budget.

TITLE III—EXECUTION OF THE COMMON BUDGET

ARTICLE 11

The Budget shall be executed in accordance with the principle of the separation of the functions of authorizing payments and disbursement. Appropriations shall be administered and payment orders issued by officials attached to the various services of the Community. Actual payment of expenditures and receipt of money shall be handled by accountants who receive their instructions directly from the Finance Administration and who are responsible for their administration.

ARTICLE 12

The President of the Commissariat shall be the principal agent authorizing payments for the Budget. He may, on the advice of the Finance Administration, delegate his powers to other members of the Commissariat and to the various service chiefs of the central administration or of the lower services. These deputies can administer funds only within the limits of the powers entrusted to them. The services administering funds shall periodically notify the Finance Administration of the situation of their commitments.

ARTICLE 13

Aside from the limits set for their handling of funds, the administrators can authorize expenditures only within the limits of the monthly authorizations which they are granted by the Finance Administration. These authorizations shall be determined on the basis of on the one hand requirements, and on the other hand of cash availabilities. The administrators may be held personally responsible for any excess of authorizations arising from their management.

ARTICLE 14

The sole fact that a receipt or an expenditure has been entered in the Budget shall not create rights or obligations vis-a-vis third parties. Any debt or claim can result only from a decision of the proper administrative authority.

ARTICLE 15

The Council shall unanimously approve every decision of the Commissariat which entails the acknowledgment of a debt by the Community or which limits the free disposal of the assets of the Community.

ARTICLE 16

The recovery of the claims of the Community shall be handled by the Finance Administration. The Commissariat is empowered, in case of necessity, to grant an extension (except in the special case of contributions). It may, with the consent of the Financial Controller, for an amount limited to 5,000 accounting units grant remission of debts; in case of amounts over 5,000 accounting units a Council decision is necessary.

ARTICLE 17

All purchases, sales or exchange of property shall be covered by a special regulation of the Commissariat.

ARTICLE 18

The Commissariat is empowered, in the name of the Community, to place all contracts covering expenditures provided for in the Budget, in conformity with the methods set forth in this Budget. The procedures for letting contracts will be prescribed in a special regulation of the Commissariat. The contracts let within the Community shall normally be payable in the currency of the member State concerned.

The Commissariat shall also be empowered to place contracts covering expenditures not provided for in the Budget, on condition that they amount to less than 10,000 accounting units and that it does not increase the total volume of the Budget. It shall give an accounting at the next meeting of the Council. If the contract exceeds 10,000 accounting units a decision of the Council, by a two-thirds majority, shall be required.

ARTICLE 19

All payments shall presuppose the presentation of documents in proof of the service performed. It shall be the responsibility of the Finance Administration, in agreement with the accounting organizations, to define the nature of such documentary evidence.

ARTICLE 20

In the cases and within the limits authorized by the Finance Administration, funds may be placed at the disposal of certain of the services which shall have the responsibility of subsequently justifying the use of these funds. The renewal of these advances shall be subordinated to the justification of the use of previous advances.

TITLE IV—CURRENT CONTROLS OF THE EXECUTION OF THE COMMON BUDGET

ARTICLE 21

Current controls on the execution of the common budget, aside from the powers of the Financial Controller himself, shall be carried out by the services of the Commissariat and the other institutions of the Community.

ARTICLE 22

The Financial Controller shall have a dual mission: *He shall give opinions.* In this connection, all budgetary documents, all draft statutes, and armament equipment, supply and infrastructure plans to be covered by budgetary expenditures shall be submitted to him for his opinion.

He shall check on the regularity of expenditures. In this connection, all expenditure commitments as well as payment orders in the measure necessary to the effectiveness of his control shall first be submitted to him for his signature. Disbursing agents shall refuse to honor orders to pay which have not been submitted for his signature.

The Financial Controller shall have the right to ask the services for any explanation which he may consider desirable in the exercise of his mission. He may check on documents and make spot checks. He shall be informed by the Finance Administration of any situation which concerns the administration of the Budget as well as the Treasury and in particular the monthly allocation of funds.

The Financial Controller shall manage his own services so as to collaborate as closely as possible with the functioning of the services of the Community and so as not to entail a delay in their operations.

ARTICLE 23

The head of each service or section, depending on the requirements, shall see that funds are administered in accordance with the methods foreseen by the budget and order the most economical conditions with the assistance of an administrative and financial section for which the necessary operating civil or military regulations shall be established in agreement with the Finance Administration.

He shall see to the enforcement of financial directives and specifically the preparation and routing of any provisional statements or reports which may be considered necessary. Whenever it shall appear desirable the head of the administrative and financial section may be delegated the authority to authorize payments.

TITLE V—TREASURY

ARTICLE 24

The Community shall try to avoid any sizable transfer of cash by carrying out its operations through checking accounts. It shall open accounts in national central banks and shall also make use of the postal check services in existence on the territory of the member States. Under exceptional circumstances, it may enlist the assistance of private banking institutions.

ARTICLE 25

The Community shall inform each State of the contribution for which it is liable. Payment shall be made in national currency. The account of the Community shall be credited on the due date. In the case of delay in payment, the rate of exchange to be applied in converting into national currency the common currencies in which the budget is established shall be the rate in force on the day when the account of the Community is credited and not the due date. In cases where contributions are voluntarily paid before the due date, the rate of exchange to be applied shall be that of the due date, the anticipated payment having only the character of a non-legal payment on account.

ARTICLE 26

Any delay beyond three days in the payment of a contribution shall entail payment of 10 percent interest, counting from the due date. Moreover, the delinquent State shall be required to assume the additional expenditures which its delay in payment has caused the Community, particularly the interest on funds to which the Community should have had recourse.

ARTICLE 27

In case of necessity, the Community shall require the States to grant it an advance equal at the most to the amount of the following monthly contribution. The State making the loan shall receive interest which shall not be more than that State pays its own creditors for operations of this nature.

ARTICLE 28

The Community shall avoid all financial operations not justified by absolute necessity. It shall not perform any arbitrage in the placement of its assets. Such placements are made in short-term Treasury bills of the national treasuries. To the extent that the Community may wish to make deposits in private banks, it shall reach an agreement with the competent monetary authorities of the State in question on the maximum amount of these deposits. The Community shall not place money with a non-member State nor engage in placements with member States which necessitate arbitrage of exchange except with the unanimous consent of the Council.

TITLE VI—TRANSFERS AND ARBITRAGE

ARTICLE 29

In executing the common Budget, the Commissariat shall use for payments in the monetary zone of a member State at least 85 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, this percentage may be reduced. If agreement cannot be reached between the Commissariat and the State in question as to this reduction, the question, at the request of one or the other of the parties, shall be brought before the Council of Ministers which shall decide by unanimous vote.

ARTICLE 30

The Commissariat, in the execution of the common Budget, shall limit the amount of payments in the monetary zone of a member State to a sum equal at the most to 115 percent of the contribution paid by that State. At the request of the State in question or of the Commissariat, the amount of expenditures in national currency may be raised to more than 115 percent of the contribution of that State. If agreement cannot be reached between the Commissariat and the State in question as to this increase, the question, at the request of one or the other of the parties, shall be brought before the Council which shall decide by unanimous vote.

The Community shall procure the sums in national currency which are in excess of the contribution of the State in question either through arbitrage of the currency of the member State or arbitrage of the currency of non-member States in conformity with Articles 31 and 32 below.

ARTICLE 31

Within the limit of sums which, under the terms of Article 29 above, may be utilized outside of the monetary zone of a member State, the Commissariat may freely engage in arbitrage between the currency of member States and that of non-member States which are linked by a multilateral payments system. Within the limits provided above, and contingent on Article 32 below, the Commissariat may, in agreement with the Governments in question, carry out arbitrage between the currency of member States and the currency of third countries which do not participate in this multilateral payments system. If agreement cannot be reached, the question shall be brought before the Council of Ministers either by the Commissariat or by a member State and the Council shall decide by unanimous vote.

ARTICLE 32

Any arbitrage involving either assignment to the Community by a member State of U. S. dollars or freely-convertible currency against delivery of currency of a member State, or acquisition by the Community of currency of a member State against delivery of U. S. dollars or freely-convertible currency, shall be subject to agreement of the Council of Ministers by unanimous vote.

ARTICLE 33

Transfers among member States necessary to the execution of the payments of the Community shall be considered as current payments.

ARTICLE 34

In the preparation and execution of the Budget, the Commissariat shall limit commitments in currency of a member State or currency of a non-member State to the available funds resulting from the application of the preceding articles.

It shall make allowance for the indirect charges in foreign exchange arising for a member State as a result of the activities of the Community within its territory.

ARTICLE 35

In order to avoid disturbances in the balance of payments of member States, the Commissariat shall make a careful choice of arbitrated currencies in the light of the economic and financial situation of the participating countries. It shall take the necessary steps to spread out the necessary transfers over the year in question.

ARTICLE 36

In cases where the transfers and arbitrages could not continue to be carried out through the European Payments Union[1] the provisions of the present Protocol relative to these transfers and arbitrages shall be reexamined by the Council which shall unanimously decide on the new provisions to be adopted.

TITLE VII—FOREIGN AID

ARTICLE 37

All division of foreign aid by way of exchanging freely convertible currencies against the local currency of the member States which is contained in an aid agreement foreseen in Article 98 of the Treaty shall be subject to a special approval of the Council by a unanimous vote in application of Article 32 above.

ARTICLE 38

Foreign financial aid is considered as a receipt separate from the contributions of the member States and is not subject to the provisions of Articles 29, 30, 34 and 35 above.

TITLE VIII—BOOKKEEPING

ARTICLE 39

The Finance Administration shall, in conformity with the provisions of the financial regulation and in agreement with the control authorities, decide on the accounting regulations which will make it possible to record all of the operations of the Community, to follow the execution of the Budget, and to prepare the rendering and verification of the accounts of administration.

TITLE IX—GENERAL PROVISIONS

ARTICLE 40

The Council by unanimous vote shall approve a Financial regulation which shall embody, complete and define the provisions of the present Protocol. Eventually this regulation will be prepared by the Commissariat.

ARTICLE 41

The provisions of the present Protocol which complete and define the application of the articles of the Treaty can be amended by a unanimous vote of the Council.

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[1] See *supra*, docs. 10–11.

19. PROTOCOL CONCERNING RELATIONS BETWEEN THE EUROPEAN DEFENSE COMMUNITY AND THE NORTH ATLANTIC TREATY ORGANIZATION, MAY 27, 1952 [1]

The member States of the European Defense Community,

Desirous that relations between the North Atlantic Treaty Organization and the European Defense Community maintain the greatest flexibility and avoid to the greatest extent possible the overlapping of responsibilities and functions,

Agree as follows:

1. Mutual consultations shall take place between the North Atlantic Council and the Council of the European Defense Community on questions concerning the common objectives of the two organizations, and the two Councils shall hold joint meetings whenever one or the other deems it desirable.

Whenever one of the parties to the North Atlantic Treaty or one of the parties to the Treaty establishing the European Defense Community shall consider that the territorial integrity, the political independence or the security of one of them is threatened, or that the existence or integrity of the North Atlantic Treaty Organization or of the European Defense Community is threatened, a joint meeting shall be held upon the request of such party in order to study measures to be taken to deal with the situation.

2. With a view to ensuring close coordination on the technical level, each Organization shall communicate to the other appropriate information, and a permanent contact shall be established between the staffs of the European Defense Community Commissariat and of the civilian agencies of the North Atlantic Treaty Organization.

3. As soon as the European Defense Forces shall have been placed under the command of a Commander responsible to the North Atlantic Treaty Organization, members of the European Defense Forces shall become members of such Commander's Headquarters and of appropriate subordinate Headquarters. Commanders responsible to the North Atlantic Treaty Organization shall ensure all necessary liaison between the European Defense Forces and the other military agencies of the North Atlantic Treaty Organization.

4. The Council of the European Defense Community and the North Atlantic Council may by common agreement adjust the foregoing arrangements governing relationships.

5. The present protocol shall enter into effect at the same time as the Treaty establishing the European Defense Community, of which it shall form an integral part.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 225–226.

20. [FIRST] SPECIAL PROTOCOL, MAY 27, 1952 [1]

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to consult together with a view to reaching an agreement which shall form the basis for the decision of the Council of Ministers of the Community provided for in Article 12, paragraph 2 of the Military Protocol annexed to the said Treaty.

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21. [SECOND] SPECIAL PROTOCOL, MAY 27, 1952 [2]

The Governments of the signatory States of the Treaty establishing the European Defense Community, signed this day, agree to take all appropriate measures to facilitate the adherence of the Community as such to international Conventions relating to the laws of war.

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22. TREATY BETWEEN THE UNITED KINGDOM AND THE MEMBER STATES OF THE EUROPEAN DEFENSE COMMUNITY, MAY 27, 1952 [3]

The President of the Federal Republic of Germany, His Majesty the King of the Belgians, the President of the French Republic, the President of the Italian Republic, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Low Countries, Her Majesty the Queen of Great Britain, Northern Ireland and the British Territories beyond the Seas,

> Desirous, in the interests of Western European defense, to extend to the relations between the United Kingdom and the member States of the European Defense Community, established by the Treaty signed at Paris on 27 May 1952, the guarantees of assistance against aggression, provided in Article IV of the Treaty signed at Brussels on March 17, 1948,[4]

have designated as plenipotentiaries

. . . .

who, having exchanged their full powers and found them in good and due form, have agreed as follows:

ARTICLE I

If, at any time while the United Kingdom is a party to the North Atlantic Treaty, any other Party to the present Treaty which shall at that moment be a member of the European Defense Community, or the European Defense Forces, should be the object of an armed attack in Europe, the United Kingdom shall, in accordance with Article 51 of the United Nations Charter, afford the party or the defense forces so attacked, all the military and other aid and assistance in its power.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., p. 226.

[2] *Ibid.*

[3] *Ibid.*, pp. 227–228.

[4] *Supra*, p. 969.

ARTICLE II

As long as Article I of the present Treaty remains in effect, if the United Kingdom or its armed forces should be the object of an armed attack in Europe, the other Parties to the present Treaty which at the time shall be members of the European Defense Community, and the European Defense Forces, shall afford the United Kingdom and its forces all the military and other aid and assistance in their power.

ARTICLE III

The present Treaty shall be ratified and its provisions executed in accordance with the constitutional rules of each contributing State. The instruments of ratification shall be deposited with the Government of the United Kingdom which shall inform the Governments of the other signatory States of each deposit. The Treaty shall become effective as soon as all of the signatory States shall have deposited their instruments of ratification and the Council of the European Defense Community shall have notified the Government of the United Kingdom that the Treaty establishing the European Defense Community has entered into effect.

ARTICLE IV

The present Treaty, both the English and French texts of which shall be official texts, shall be deposited in the archives of the Government of the United Kingdom, which shall transmit a certified true copy to the Government of each of the other signatory States.

. . . .

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23. ADDITIONAL PROTOCOL ANNEXED TO THE TREATY ESTABLISHING THE EUROPEAN DEFENSE COMMUNITY, CONCERNING GUARANTIES OF ASSISTANCE FROM THE MEMBER STATES OF THE COMMUNITY TO THE STATES PARTIES TO THE NORTH ATLANTIC TREATY, MAY 27, 1952[1]

The member States of the European Defense Community,

Convinced that the creation of the European Defense Community, established by the Treaty signed in Paris on May 27, 1952, will strengthen the North Atlantic Community and the integrated defense of the North Atlantic area, and will promote a closer association of the countries of Western Europe,

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 228–229.

Agree as follows:

ARTICLE I.

Any armed attack

(i) on the territory of one or more of the Parties to the North Atlantic Treaty in the area defined in Article 6 (i) of the said Treaty,[1] or (ii) on the land, naval or air forces of any of the Parties to the North Atlantic Treaty when in the area described in Article 6 (ii) of that Treaty, shall be considered an armed attack against all the member States of the European Defense Community and against the European Defense Forces.

In the event of such an armed attack, the member States of the European Defense Community, in respect of themselves and of the European Defense Forces, shall have the same obligations towards the Parties to the North Atlantic Treaty as those Parties undertake towards the members of the European Defense Community and the European Defense Forces, in virtue of the Protocol between the parties to the North Atlantic Treaty referred to in Article 2 below.

The expression, "States Parties to the North Atlantic Treaty" shall mean parties to the said Treaty at the time of entry into effect of the present Protocol.

ARTICLE II.

The present Protocol shall enter into effect at the same time as the Protocol between the States parties to the North Atlantic Treaty, which extends reciprocal guarantees to the member States of the European Defense Community and to the European Defense Forces.[2]

ARTICLE III.

The present Protocol shall remain in effect for so long as the Treaty signed at Paris on May 27, 1952, establishing the European Defense Community, and the North Atlantic Treaty, supplemented by the Protocol referred to in Article II above, remain in effect.

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24. COMMON DECLARATION BY THE FOREIGN MINISTERS, MAY 27, 1952[3]

The governments represented at the Conference of Foreign Ministers in Paris,

Aware of the essential importance of Article 5 of the Treaty establishing the European Defense Community,

In view of Article 128 (new numbering) of the said Treaty, providing that such Treaty is concluded for a period of 50 years following the date of its entry into effect,

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[1] For the text of art. 6 the North Atlantic Treaty, see *supra*, p. 813.

[2] For Protocol to the North Atlantic Treaty on Guarantees Given by the Parties to the North Atlantic Treaty to the Members of the European Defense Community, May 27, 1952, see S. Execs. Q and R, 82d Cong., 2d sess., pp. 23–24.

[3] S. Execs. Q and R, 82d Cong., 2d sess., p. 229.

Express the wish that the provisions concerning the duration of the North Atlantic Treaty be adopted to those of the said Article 128.

Consider it desirable that the necessary initiative to this end be taken by the States parties to the North Atlantic Treaty which are participating in this Conference.

These governments agree to take such initiative.

25. PROTOCOL CONCERNING THE INTERIM COMMITTEE, MAY 27, 1952 [1]

The delegations which participated in drawing up the Treaty shall continue to meet as an Interim Committee during the period between the date of signature of the Treaty and the date when the institutions of the European Defense Community begin to function.

Within the Interim Committee they shall consider problems which concern the Community and the measures which the signatory Governments might be required to take before said institutions begin to function.

The Interim Committee shall, on the basis of the Treaty and the annexed Protocols and Conventions, draft the texts which are to be put into force at the same time as the Treaty in order to make it possible for the institutions of the Community to begin to function as soon as the Treaty is ratified.

In addition, it shall collect all of the information needed to facilitate performance by the Commissariat of the most urgent tasks for which it is responsible.

The Interim Committee shall be able to appoint *ad hoc* working groups and on a temporary basis to call on the experts necessary to carry out their mandate.

The work of the Interim Committee may consist only of preparatory studies and plans which shall not commit the Governments and shall not entail any measures of execution.

26. JURISDICTIONAL PROTOCOL, MAY 27, 1952 [2]

TITLE I—REPARATION OF DAMAGES

Chapter I—Responsibility

ARTICLE 1

The Community shall make reparation for the damage caused by the dereliction of its services.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., p. 231.

[2] Ibid., pp. 232–240.

ARTICLE 2

1. The Community, even when not at fault, shall be responsible for damage caused within the buildings and installations under its charge, without prejudice to the possible responsibility of the owner of such property, who remains liable in conformity with national law.

In this case, the responsibility of the Community may be evaded or lessened only to the extent that such damage is proved to be the fault of the victim or of a third party or is the result of an act of God.

2. The Community shall be responsible under the same conditions with reference to any of its activities which especially endanger third parties.

3. Until such time as there is established common legislation on civil responsibility as regards damage caused to third parties in matters of transportation, the regulations set forth above shall be applied by the competent organizations of the Community, in such a way as to achieve the utmost harmony among the principles of the national legislation of the member States, to the extent that this is in keeping with respect of the above regulations.

ARTICLE 3

When the operation of the services of the Community or the buildings and installations under its charge subject third parties to an exceptionally serious risk, the responsibility of the Community may be evaded or lessened only to the extent that it is proved that the damage is due to the fault of the victim.

ARTICLE 4

The Community shall be responsible for that damage caused to roads or public installations, as a result of utilization thereof by its Forces or its Services which exceeds appreciably either by its nature or by its extent the damage resulting from ordinary utilization of the above facilities.

ARTICLE 5

Unless otherwise stipulated, the Community shall make reparation for damage caused to property placed at its disposal, by virtue of an agreement with one of the member States of the Community or with an agency of these States.

ARTICLE 6

The community shall make reparation for the damages caused by the fault of its agents in the exercise of their functions.

Agents shall not be responsible toward third parties as a result of such acts.

ARTICLE 7

Agents of the Community shall be personally responsible toward third parties, according to the applicable local law and before the competent jurisdiction under common law, for damage for which they are at fault and which is committed outside the exercise of their functions.

In case of dispute on the point of whether the act causing damage was performed during the exercise of functions, the case shall be brought before the territorially competent court, which shall give final decision on this point, unless such case is covered under the conditions provided in Article 13 below.

Notwithstanding the provisions of paragraph 1 of the present Article, an indemnity may be granted voluntarily by the Community to the injured party, taking into account all the circumstances of the case, particularly the conduct and behavior of the victim. The decisions taken by virtue of the present paragraph may not be appealed.

ARTICLE 8

When a particularly serious act committed by one of its agents has caused the Community direct damage or when by such act the responsibility of the Community is involved in accordance with the provisions of the present Chapter, such agent may be condemned to make reparation for all or part of the damage caused the Community by his act.

ARTICLE 9

Each member State shall refrain from demanding an indemnity of the Community in the event that a member of its armed forces forming part of the Community suffers bodily injury in line of his duty.

Chapter II—Procedure

ARTICLE 10

1. Without prejudice to the provisions of Article 16 below, claims for indemnity shall be submitted to local Indemnity Commissions, of which the number, the territorial jurisdiction and the procedures shall be fixed by regulations drawn up by the Commissariat.

2. These Commissions shall be composed of:

a President appointed by the Commissariat or by the authority to which the latter shall have delegated its powers for this purpose, from among persons having all the necessary qualifications for legal competence in such matters and possessing the nationality of the receiving State;

a member appointed by the Commissariat from among the citizens of member States other than those of the receiving State;

a member of the European Forces appointed by the locally competent European military authority.

3. The Commission shall examine the claims for indemnity and proceed with any investigations, verifications, and appraisals which may seem necessary. Within the limits of the powers delegated to him by the general instructions of the Commissariat, the President shall strive to promote an amicable settlement with the claimant.

If an amicable settlement is not reached, the Commission shall determine the indemnity due the claimant. The decision of the Commission shall be taken by majority vote. Reasons for the decision shall be given.

The Commission may decide that an advance on account of the indemnity shall be paid to the claimant, notwithstanding any recourse to appeal.

ARTICLE 11

The decision of the Commission may be appealed by the claimant within two months after notification of such decision or by the Commissariat as soon as such decision has been pronounced. Appeal on a point of law may be filed within the period specified by the provisions governing procedure before the Court.

Without prejudice to the provisional measures provided for in paragraph 3 of Article 10 above, the decisions of the Commission shall become final prior to the expiration of the appeal period only if the claimant and the Commissariat forego the exercise of their right of appeal. Appeal shall be a stay of judgment.

ARTICLE 12

Appeal shall be filed before a regional section of the Court composed of one of the judges of this jurisdiction, who shall preside, assisted by four magistrates of the Community. The latter shall be of the nationality of the receiving State. In certain categories of cases, the regional court may consist of only three judges.

Decisions of the Council, taken at the request of the President of the Court and after consultation with the Commissariat, shall fix the number and the territorial jurisdiction of the sections as well as the conditions under which these sections may eventually be called upon to sit in several localities under their jurisdiction.

The regional sections shall examine the case, complete the judicial inquiry if necessary, and make final judgment.

ARTICLE 13

When a case involves questions of principle, it may be referred to the Court either by the [regional section] or by its President after consultation with the assessors whenever the amount of the claim exceeds three thousand United States dollars. When the amount of the claim does not exceed three thousand United States dollars, the Commissariat may, when the case involves questions of principle, file an appeal before the Court in the interest of law against the decision of the regional section; this last decision shall be a final decision binding on all parties.

For judging the cases with which it is seized by virtue of the provisions of the preceding paragraph, the Court shall include the judges who preside over the regional sections.

ARTICLE 14

Claims based on Articles 1, 2, 3, 5 and 8 will not be accepted unless submitted within a period of five years from the date on which the act giving rise to such claims occurred. Such shall also be the case with claims of every nature based on the provisions of the present Title, as regards litigation between the Community and the member States or the territorial collectivities of these States.

In the case of claims resulting from injury to persons and damage to property caused by traffic accidents, however, the period shall be three years.

ARTICLE 15

The decisions of the Court, the decisions of the regional sections, and the final decisions of local Indemnity Commissions shall be carried into effect under the conditions specified in Article 66 of the Treaty.

ARTICLE 16

Only the Court shall be competent to rule on matters involving litigation of every nature between the Community and the member States or territorial collectivities of these States relative to application of the provisions of the present Title.

Chapter III—Special Provision

ARTICLE 17

The Community shall be responsible for damage caused by the maneuvers or exercises conducted by the European Defense Forces, as well as the damages caused by their billeting.

The conditions for reporting and estimating such damages and the periods within which claims must be submitted shall be specified in regulations issued by the Commissariat with the agreement of the Council, acting by a two-thirds majority vote, after consultation with the governments of interested member States.

TITLE II—PENAL PROVISIONS

Chapter I—Penal Provisions

ARTICLE 18

Upon the entry into effect of the Treaty, the member States shall transfer to the European Defense Community their powers to mete out punishment for the penal offenses which may be committed by the members of the European Defense Forces.

ARTICLE 19

Punishment for such penal offenses shall be provided for as soon as possible by common legislation drawn up in conformity with the constitutional regulations of each member State and which shall in addition include the regulations governing judiciary organization and procedure.

Chapter II—Transitional Provisions

ARTICLE 20

Until such time as the common legislation referred to in Article 19 above goes into effect, the provisions of the following Articles shall be applicable on a transitional basis.

ARTICLE 21

The jurisdictional powers of the Community shall be ensured under the following conditions by judicial bodies exercising a European function.

ARTICLE 22

The judicial bodies referred to in Article 21 above shall be:

1. The Court, which shall rule on the following under the conditions referred to in Article 30 below:
    - a) Cases involving conflicts of jurisdiction;
    - b) Questions of law concerning the interpretation of the Treaty, the annexed protocols and their supplementary provisions;
    - c) All other cases which shall fall within its competence, particularly as concerns the punishment of certain offenses committed by the persons specified in Article 18 above and constituting grave injury to the interests of the Community.
2. Tribunals, which may be:

    European tribunals of national composition which shall be subordinate to a regional section of the Court as regards final appeal;

    national tribunals acting by delegation of the Community, in the case where the interested member State deems such a procedure necessary for constitutional reasons or for reasons relating to the general structure of judicial organization.

ARTICLE 23

The organization and the procedure of the tribunals referred to in Article 22 above, including the modifications to be made in the organization and the procedure of the regional sections of the Court in so far as they rule over penal cases, shall be regulated by the national legislation of the interested member States. These regulations shall be applied as European law with regard to European tribunals.

ARTICLE 24

Without prejudice to the provisions of paragraph 3 of Article 30 below, the persons referred to in Article 18 shall be tried by the European tribunals of their nationality or by their national tribunals acting by delegation of the Community respectively, as provided for in paragraph 2 of Article 22 above.

ARTICLE 25

Without prejudice to the exceptions provided for in the present Protocol, dependents residing at posts outside the territory of the State of origin shall be subject to the normally competent jurisdiction of the receiving State.

The exceptions referred to in the preceding paragraph shall be determined in conformity with the constitutional regulations of each of the member States.

ARTICLE 26

1. The persons referred to in Article 18 of the present Protocol shall remain subject solely to the law of their State of origin, without prejudice to the exception provided for in the present Protocol as concerns local law.

2. Exceptions shall be determined in consideration of the following:

a) The strictly territorial nature of the application of certain regulations, especially as regards road traffic, hunting and fishing;

b) The interests of the receiving State and its inhabitants; this shall be the case in particular as concerns acts which are prejudicial to this State or are committed against its inhabitants, when the law of the State of origin does not recognize these acts as offenses or when it punishes such acts with penalties much less severe than those provided under local law.

3. For the enforcement of the law of the receiving State, a system whereby a correspondence will be established among the various penalties provided under the respective laws of the member States shall be drawn up.

ARTICLE 27

The right of pardon as regards the penalties pronounced by the judicial bodies provided for in Article 22 above against members of the European Defense Forces shall be exercised by the competent authorities of the State of origin.

ARTICLE 28

1. The carrying out of penalties entailing deprivation of freedom shall be ensured by the authorities of the State of origin of the member of the European Defense Forces.

2. In the case of penalties entailing deprivation of freedom for a period of less than six months, however, the carrying out of such penalties may be ensured in accordance with the conditions to be set forth in the Convention provided for in Article 30 below.

ARTICLE 29

1. In the legislation of each of the member States, the provisions punishing offenses which constitute injury to national armed forces, their installations or their members shall be applicable to acts of the

same nature committed against the European Defense Forces or their members.

2. In addition, the Government of each of the member States shall submit to the legislative authority such bills as it may deem necessary for ensuring within the territory of such State the security and protection of the European Defense Forces, their installations, equipment, property, and official records and documents, as well as the punishment of violations of such legislation.

ARTICLE 30

A special Convention shall stipulate:

1) The organization of the Court, its operating procedure, including the use of languages, and its regulations of jurisdiction, within the limits specified in paragraph 1 of Article 22 above. The principle of absolute equality of the juridical regulations applied by each of the member States, whether such regulations be European or national, shall be respected for the settlement of the conflicts referred to in sub-paragraph 1a of Article 22 above:

2) The provisions necessary for ensuring an effective protection of the interests of the Community as concerns penal matters;

3) The cases in which the right of jurisdiction referred to in Article 24 of the present Protocol may be waived;

4) The exceptions referred to in Article 25. These exceptions shall be determined on the basis of the following principles:

> Dependents shall be subject to the jurisdiction of judicial bodies exerting a European function when the offense is committed against the Community, the person or the property of a member of the European Defense Forces. In this case, the judicial body competent to judge the dependent shall be that body which, under the terms of Article 22, would be competent to judge the head of the family, the member of the military forces or of the civil personnel.
>
> In every case, the authorities which shall have competence may waive their right of jurisdiction; they shall examine with the greatest consideration any request which is received prior to such time as the tribunal trying the case has pronounced its verdict and which would result in the defendant being led before a tribunal other than that which would normally be competent.
>
> Minors, as defined by the penal code of their State of origin, shall in every case be referred to the normally competent judicial bodies of their State of origin.
>
> In every case, the competent authorities shall notify one another of their decisions and shall keep one another informed of the subsequent action taken in all affairs;

5) The exceptions referred to in Article 26;

6) The conditions under which the organizations of the Community may institute law suits;

7) The conditions for judicial mutual aid;

8) The judicial competence of the military police and of the

police of the receiving State and the conditions for their mutual aid;

9) All other provisions which might prove necessary to placing the present Protocol into effect.

TITLE III—TRANSITIONAL PROVISIONS RELATIVE TO BELGIUM

In view of the obstacles of a constitutional nature which at this time prevent total application of the provisions of the present Protocol to Belgium, the following provisions are applicable:

ARTICLE 31

In exception to the provisions of the present Protocol and on a transitional basis, as concerns offenses committed within the territory of the Belgian State by members of the European Defense Forces originating from said State, the right of jurisdiction shall be limited solely to the Belgian courts and tribunals, which shall rule by virtue of the power vested in them and in conformity with Belgian law, as regards the penal code applicable as well as the procedure and the means of ordinary and extraordinary appeal.

ARTICLE 32

In exception to the provisions of the present Protocol and on a transitional basis, in the case of damage caused on Belgian territory, the victim who does not accept the decision of the local Indemnity Commission and does not see fit to appeal to the regional Section of the Court as provided for in Article 11 above, may, within a period of three months after notification of such decision, institute before the competent Belgian court a civil lawsuit against the Belgian State, which shall be required to make reparation for the damages in so far as its responsibility would be engaged if such damages had been caused by the operation of its own services.

In the latter case, the Belgian State, which will have been condemned to pay an indemnity, may bring suit for reimbursement against the Community before the Court of Justice, which shall rule in accordance with the terms of the present Protocol.

TITLE IV—DEFINITIONS

ARTICLE 33

a) The "members of the European Defense Forces" shall include the members of the military element and the members of the civil element.

b) By "civil element" is meant the non-military personnel incorporated in the services of the European Defense Forces under the conditions fixed by the competent authorities of the Community.

c) By "dependent" is meant the spouse of a member of the military element or the civil element, their minor children and, exceptionally, their parents or descendants in direct line who habitually make their residence with such member and who are authorized by the qualified authorities of the Community to accompany the head of the family.

d) By "State of origin" is meant the member State on which the members of the military element or the civil element depended before becoming part of the European Defense Forces.

e) By "receiving State" is meant the member State within the territory of which the members of the military element or the civil element of the European Defense Forces are stationed or are in transit.

ARTICLE 34

The special Convention referred to in Article 30 above shall set forth the conditions for application of the present Protocol. It shall form part of the jurisdictional statute provided for in Article 67 of the Treaty.

27. CONVENTION RELATIVE TO THE STATUS OF EUROPEAN DEFENSE FORCES AND THE TAX AND COMMERCIAL REGIME OF THE EUROPEAN DEFENSE COMMUNITY, MAY 27, 1952 [1]

TITLE I—PUBLIC SECURITY

ARTICLE 1

The members of the European Defense Forces shall be required to respect the laws in force and to refrain from all political activity within the territory of the receiving State.

This requirement shall not interfere with the exercise of political rights, in accordance with the provisions of the internal laws of the State of origin, and under conditions compatible with the status of member of the European Forces.

The Authorities of the European Defense Forces shall ensure that these provisions are complied with and shall take the measures necessary for this purpose. At the request of the competent authorities of the receiving State, they may, in particular, order the immediate transfer of a member of the European Defense Forces who has not respected the requirement set forth in the first paragraph of the present Article, without prejudice to the possible application of disciplinary measures in case the conduct of the party concerned was or would be such as to disturb law and order in the receiving State.

ARTICLE 2

1. Without prejudice to the provisions of paragraph 2 of the present Article, the members of the European Defense Forces shall be exempt from passport and visa formalities as well as regulations relative to the registration and the control of foreigners.

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[1] S. Execs. Q and R, 82d Cong., 2d sess., pp. 240–251.

2. Only the following documents shall be required of members of the European Defense Forces. They shall be presented upon demand:

a) Personal identity card of a standard type but of a different color for military and civil personnel, issued by the qualified authorities of the European Defense Forces, bearing a photograph and the full name, the date and the place of birth, the nationality, the arm or service, the rank or assignment, and, if appropriate, the serial number of the holder.

b) Individual or collective permit, issued by the qualified authorities of the European Defense Forces and indicating the name of the person or unit in question and the purpose of the mission or travel.

The headings on the documents mentioned in paragraphs a) and b) above shall be printed in German, French, Italian, and Dutch.

3. The qualified authorities of the European Defense Forces shall, insofar as possible and using standard procedures, inform the authorities of the interested receiving State of the full names, the date and place of birth, and the nationality of the members of the civil element who would have occasion to enter the territory of said receiving State.

ARTICLE 3

Dependents residing with members of the European Defense Forces and authorized by the qualified authorities of these Forces to accompany the head of the family must be in possession of a passport issued by the State of origin. Indication of their status as well as the authorization issued to them shall be entered in the passport by the above-mentioned. They shall be exempt from visa formalities and every facility shall be granted them by the receiving State as concerns their obligations under regulations governing residence within the territory of this State.

With these exceptions, dependents shall be subject to the laws of the receiving State as concerns foreigners. However, if a member State or the Commissariat deems that the authorities of the receiving State are making abusive use of the exercise of the laws of this State or are applying such laws in a manner contrary to the essential interests of the Community, they may bring the matter before the Council; the latter may request the receiving State to review the measures or decisions taken, which their State shall then do in taking the interests of the Community fully into account.

ARTICLE 4

1. Without prejudice to the possible application of the laws of the receiving State as concerns foreigners, the authorities of the European Defense Forces shall be required to ensure the repatriation of members of the European Defense Forces from the territory of a receiving State as soon as they cease to be in the service of these Forces.

2. The authorities of the European Defense Forces shall immediately inform the authorities of the receiving State of any illegal absence exceeding six days.

3. The periods during which a member of the European Defense Forces is present within the territory of one of the member States solely by reason of his status as member of these Forces shall not be considered as periods of residence toward acquisition of the right to permanent residence or domicile or as entailing a change of domicile.

The same shall be true for the dependents referred to in Article 3 above.

ARTICLE 5

Regularly constituted military units or formations shall have the right of police in all camps, establishments or other installations occupied by them by virtue of an agreement with the receiving State for ensuring the maintenance of order and security in these installations. For this purpose, the police of the receiving State may operate within the installations of the Community with the agreement of the qualified authorities of the Community and in cooperation with the elements of the Community.

The use of the abovementioned military police outside these installations shall be subordinated to an agreement with the authorities of the receiving State and shall take place in liaison with these authorities.

ARTICLE 6

1. The member States shall consider as valid, without requiring examination, fee or tax, a driving license issued by one among them to a member of the European Defense Forces, or a military driving license issued by the qualified authorities of the European Defense Forces.

2. In the case of internal navigation, certificates testifying to boat-handling ability shall be subject to the general regulations in force in the receiving State. The issuance of a navigation certificate may be the subject of a special convention.

ARTICLE 7

1. The regulations on road traffic in force in the receiving State shall apply to the European Defense Forces, except where such national legislation is modified upon the advice of the Commissariat in order to take into account the characteristics of certain vehicles or certain military requirements.

2. The competent authorities of the Community shall provide for the registration of all vehicles belonging to the Community, and for the affixing on these vehicles of a registration plate of a uniform type bearing a number and a distinctive marking. The presence of the plate on the vehicle and the possession by the driver of the corresponding registration certificate shall permit travel within the territory of each of the member States.

The competent authorities of the Community shall ensure that the vehicles registered and placed in circulation comply with the regulations in force in the various member States in which they shall have occasion to be used. They shall ensure that the vehicles placed in circulation are inspected and are in proper working order.

ARTICLE 8

The competent authorities of the Community shall provide for the registry of the aircraft belonging to the Community as well as for the affixing on such aircraft of a distinctive emblem of a uniform type and individualized markings.

These authorities shall ensure that the aircraft registered and placed in service comply with the regulations in force in the member States. Upon the advice of the Commissariat, the member States shall take the necessary measures for ensuring the uniformity of these regulations, particularly as concerns control over the state of navigability and the fitness for flight of aircraft.

The flight certificates of military flying personnel on service at airfields belonging to the European Defense Forces shall be issued or validated, depending upon the case, by the competent authorities of the Community.

The regulations on aerial navigation in force in the receiving State shall apply to the European Defense Forces, except where modifications shall be made in each national legislation because of military necessities upon the advice of the Commissariat and taking into account international conventions.

ARTICLE 9

The authorities of the European Defense Forces shall draw up regulations on the wearing of the uniform, and these regulations shall be reported to the competent authorities of the member States. Regularly constituted military units and formations shall appear in uniform when they wish to cross frontiers.

ARTICLE 10

The authorities of the European Defense Forces shall draw up regulations on the wearing and possession of arms by the members of these Forces, and these regulations shall be reported to the competent authorities of the member States.

ARTICLE 11

The competent authorities of the European Defense Forces shall give friendly consideration to the requests which the authorities of the receiving State may make as concerns the application of the provisions of Articles 9 and 10 above.

TITLE II—PUBLIC SERVICES AND MILITARY INSTALLATIONS

ARTICLE 12

The European Defense Forces may benefit from the public services within the territory of the member States, particularly as concerns the following:

a) Postal and telecommunications services;
b) Land, sea and air transport;

c) Electricity, gas, and water supply;
d) Sanitary services.

The public services referred to in b) above shall include facilities pertaining to the use of public services and, as the case may be, the use of their installations.

The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as regards such services.

ARTICLE 13

Public services shall be furnished under the conditions fixed by special agreements between the Community and the authorities or organizations designated by the receiving State.

The public services furnished the European Defense Forces shall be paid for by the Community on the basis of the regulations and rates in effect in the receiving State. In the absence of a regulation or rate corresponding to the service furnished, such service shall be paid for under the terms set forth in a special agreement between the competent authorities of the receiving State and the Community. Special agreements between the competent authorities of the receiving State and the Community may eventually stipulate conditions and rates different from those resulting from the provisions in force in the receiving State.

ARTICLE 14

On an exceptional basis, certain installations of public services may be placed at the exclusive disposal of the European Defense Forces by special agreement between the competent authorities of the receiving State and the Community.

ARTICLE 15

Cooperation between the services contributing to the security of aerial navigation and the meteorological service of the receiving State, on the one hand, and the corresponding services of the Community, on the other, shall be the subject of special agreements between the competent authorities of the receiving State and the Community.

ARTICLE 16

For railway transportation of members of the European Defense Forces, the competent authorities of the receiving State shall grant, under the conditions to be fixed by special agreements and subject to reimbursement by the Community, the reductions or exemptions in fares which would be requested by the Community. Under the conditions set forth in the special agreements, account shall be taken for such reimbursement of the increase in traffic due to the reductions or exemptions in fares.

For highway transportation of the persons referred to in the preceding paragraph and without prejudice to the rate terms which may be freely agreed to by the transporters, reductions in fares may be granted upon the request of the Community and under the technical and financial conditions to be fixed by special agreement concluded with the competent authorities of the receiving State to the extent that these authorities would be legally able to obtain such conditions from certain transporters. The financial agreements shall provide for reimbursement by the Community, under conditions similar to those indicated in the preceding paragraph, unless the competent authorities of the receiving State agree to conditions more favorable to the Community.

ARTICLE 17

When the means placed at the disposal of the European Defense Forces as concerns public services are judged insufficient to meet the requirements of these Forces, the competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (either, and preferably, adjustment of the use of public services or the use of their installations, or modification, reinforcement or expansion of existing installations, or, if necessary, creation of special installations) as well as the location and technical characteristics of the new installations.

ARTICLE 18

1. In order to facilitate the conclusion of the agreement referred to in Article 17 above, the competent authorities of the receiving State or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall formulate a recommendation which the receiving State may refer to the Council within a period of one month from such notification; however, such recommendation may not serve to hamper the normal operation of the public services of the receiving State. The receiving State must comply with the recommendation of the Commission if this recommendation is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

ARTICLE 19

The modification, reinforcement or expansion of existing installations, as well as the creation of special installations, shall be carried out under the conditions set forth below.

The expenditures pertaining to such operations are, in principle, borne by the Community. However, in case these operations shall also serve to satisfy the requirements of the receiving State itself, these expenditures shall be shared by the Community and the receiving State according to proportions to be fixed by special agreement. This agreement may provide for advances of funds from the Community to the receiving State.

The installations, as well as the land on which they are located, are the property of the receiving State.

Work on such installations shall be carried out by the receiving State.

ARTICLE 20

The receiving State shall ensure the operation and the maintenance of the existing installations which have been modified, reinforced or expanded, as well as the special installations created in accordance with the provisions of Articles 17, 18 and 19 above.

The operating and maintenance expenditures shall be borne by the receiving State, without prejudice to the application of Article 14 above.

The services furnished the European Defense Forces by means of these installations shall be paid for under the conditions stipulated in Article 13 above.

ARTICLE 21

1. The competent authorities of the Community shall notify the competent authorities of the receiving State of their requirements as concerns installations of a military nature, which are to be used exclusively by the European Defense Forces.

The competent authorities of the receiving State and of the Community shall seek the bases of an agreement for satisfying these requirements, taking into account the provisions of Articles 3 and 102 of the Treaty. This agreement shall cover the choice of means (modification of existing installations or, if necessary, creation of new installations). In the case of new installations, the agreement shall also cover their location and their technical characteristics; in this respect, the agreement may contain specific exceptions to national legislation and regulations, justified by military necessities though in keeping with considerations of public security.

In order to facilitate the conclusion of the above-mentioned agreement, the competent authorities of the receiving State or those of the Community may call a meeting of a Mixed Commission composed of qualified experts.

If an agreement is not reached within a reasonable period of time, the Commission shall take a decision which the receiving State may refer to the Council within a period of one month from such notification. However, this decision shall not serve to compel the receiving State to make exceptions to its legislation and to its national regulations or to its international commitments; this decision shall also be in keeping with considerations of public security.

The receiving State shall comply with the decision of the Commission if this decision is confirmed by a two-thirds majority vote of the Council.

2. The privilege which the member States enjoy by virtue of Article 56 of the Treaty is not affected by the above provisions.

ARTICLE 22

Installations such as those referred to in Article 21 above, which are the property of the receiving State, shall be placed at the disposal of the Community free of charge in the maintenance condition in which they are found. The Community shall pay the taxes and fees pertaining to such installations to the extent that it is not exempt from such taxes and fees under the provisions in effect. The maintenance and possibly the repairing of such installations shall be ensured by the Community under the conditions set forth in Article 25 below.

If the Community wishes to make any transformations in these installations, it shall obtain the authorization of the owner State. Work on such installations shall be carried out under the conditions stipulated in Article 25 below.

ARTICLE 23

If the receiving State places at the disposal of the Community installations such as those referred to in Article 21 above, which are not its property, the expenditures which it must bear as a consequence of this fact are fully reimbursed to it by the Community.

ARTICLE 24

If the creation of new installations, such as those referred to in Article 21 above, necessitates the purchase of real estate, such property shall be purchased by the Community at its expense. However, the receiving State may decide to purchase such property itself at its expense; in this case, such property is then placed at the disposal of the Community under the conditions specified in Article 22 above.

At the request of the Community, the receiving State shall employ the most effective procedures at its disposal for the purchase of such property.

ARTICLE 25

In the construction of new installations, such as those referred to in Article 21 above, the work shall be carried out either by the Community under the conditions provided for in Article 104 of the Treaty or, after agreement, by the receiving State. In both cases, the expenditure is borne by the Community.

The maintenance of the installations shall be assured under the same conditions.

ARTICLE 26

When the Community no longer has need of an installation created by it on land belonging to it or belonging to the receiving State, it shall determine the condition in which such installation shall be left in making therein only those transformations required by military necessities.

In case this installation is constructed on land belonging to the receiving State, the increase or decrease in the value of the installation shall be estimated and the corresponding financial settlement made.

In case the Community is owner of the land, the receiving State may exert a right of eminent domain on the property to be disposed of.

ARTICLE 27

1. The civil labor necessary for carrying out the tasks of the European Defense Community within the frontiers of each receiving State shall, insofar as possible, be placed at the disposal of the Community through the channel of the competent authorities charged with the employment of workers of this State.

2. The European Defense Community shall have the status of employer of this civil labor. In particular, it may conclude collective bargaining contracts. Hiring and working conditions of civil labor shall be governed by the laws of the receiving State.

In no case shall the labor employed by the Community have the status of member of the military or civil elements.

ARTICLE 28

The agreements concluded between the competent authorities of the receiving State and of the Community as concerns the satisfaction of the requirements of the Forces shall take into account the rights applicable to and the obligations incumbent upon other Forces stationed on the territory of such State, in order to assure the requirements of the European Defense Forces under conditions which will not jeopardize the interests of the Community.

TITLE II—TAX AND COMMERCIAL REGIME OF THE COMMUNITY

Chapter I—Tax and Customs Regime Taxes on Sales and Consumption

ARTICLE 29

The goods acquired on the territory of the member States by the European Defense Community, hereafter referred to as the Community, as well as the supplies and other services furnished to the Community by enterprises situated on the territory of a member State shall be subject to the duties and taxes applicable in the country in question. These operations shall be considered neither as exports nor as imports from the tax or commercial point of view.

ARTICLE 30

The transportation of goods acquired by the Community in the conditions foreseen by Article 29 of the present Convention from the territory of one member State to the territory of another member State shall not be considered by the State of origin as an export, nor by the State of destination as an import. Such transportation shall not give rise to the payment or refund of duties or taxes in force in the countries in question at the time of exportation or importation. Such transportation shall not be subjected to restrictions arising from laws concerning the commercial relations between the member States.

ARTICLE 31

The goods acquired by the Community in a non-member State shall be subject, at the time of their entry into the territory of the Community, to the duties and taxes applicable on the territory of the member State on which final customs clearance will take place. Their subsequent circulation on the territory of the member States shall be governed by Article 30 above.

Notwithstanding the provisions of the preceding paragraph, there shall be established a list of specifically military matériel for which there shall be provided, at the time of its final customs clearance, exemption from customs duties on purchases in a non-member State, but not from indirect taxes or compensatory duties for indirect taxes.

ARTICLE 32

Upon the recommendation of the Commissariat, made by the latter after consultation with the governments of the States concerned, the provisions of Articles 29 and 31 of this Convention may be revised by unanimous decision of the Council with a view to attaining uniformization and alleviation of taxes and customs duties payable on purchases made by the Community.

ARTICLE 33

The goods furnished free of charge to the Community by means of foreign aid shall not be subjected to any duties or taxes either at the time of entry or when circulating on the territory of the member States.

The Commissariat is authorized to insert in the foreign aid agreements described in Article 99 of the Treaty establishing the European Defense Community tax exemption clauses for purchases financed by foreign aid and made in the interests of defense on the territory of the member States, which are analagous to those contained or to be contained in bilateral agreements between the member States and the State which furnishes foreign aid.

At the request of a member State the Council of Ministers of the Community shall examine the possibility of an appropriate Compensation in the case where the application of the preceding provisions results in an unequal burden for any member State.

ARTICLE 34

If the application of the provisions of Articles 29 to 31 above to certain products taxed at a particularly high rate gives rise to substantial difficulties in the economy or finances of a member State, the Council, at the request of that State, shall take the necessary remedial measures. Aside from other appropriate measures, the Council may suspend application of the tax regime defined above.

ARTICLE 35

The preceding provisions do not imply the suppression of frontier controls; however the member States shall simplify the necessary formalities to the extent possible.

ARTICLE 36

Goods brought onto the territory of a member State, which have profited from the provisions of Articles 29 to 31 above, may be transferred by the Community, with or without payment, only with the authorization of the State concerned and in the circumstances to be determined by agreement between the Community and such State.

ARTICLE 37

At the request of a member State the regime provided for in the above articles may, by unanimous decision of the Council, be revised or completed by a system of compensating for tax receipts, as the economic and financial relations of the member States evolve as a result of the existence of the Community. Such a revision shall in any case be studied when the burden-sharing method provided for in Article 94 of the Treaty establishing the Community comes into effect.

ARTICLE 38

The personnel of the Community shall be subject to the consumption and sales taxes applicable in the State where they are stationed. They shall also be subject to customs duties on imports or exports except as otherwise provided for in the case of official travel.

Chapter II—Other Taxes

ARTICLE 39

The Community shall be exempted from payment of all taxes on income and capital except for:

a) taxes on the assets of the Community which are not directly utilized for its normal activity;

b) taxes on profit or income on the assets covered in subparagraph (a) above as well as on agriculture, industrial or business income.

c) Taxes representing payment for public services.

ARTICLE 40

In principle, the Community shall not benefit from any exemption from any other taxes, except for exemptions provided for by agreement between the Community and the member States.

ARTICLE 41

1. The fact that persons paid by the Community exercise their official functions in a member State other than their country of resi-

dence at the time they enter the service of the Community shall not result in a change in their domicile for purposes of income, capital, or gift and inheritance taxes. These provisions shall also be applicable to wives or husbands and children of minor age of the persons concerned.

In the country of stationing such persons shall be exempted only from taxes on income received from the Community.

Upon recommendation of the Commissariat, the Council may, by unanimous vote, determine the categories of officials of high rank of the institutions of the Community who shall, in limited numbers, be exempted in their state of origin from all taxes on income and emoluments received from the Community; these exemptions may entail an imposition on such officials of taxes for the benefit of the Community in a manner also to be decided upon by unanimous vote of the Council.

2. In the application of inheritance duties, property belonging to persons described in paragraph 1 of the present article and situated on the territory of the country of stationing shall be considered as being in the country of domicile.

ARTICLE 42

At the request of a member State and according to the procedures which that State establishes, the Community shall retain for the profit of such State the taxes due on the salaries and other payments received from the Community by the individuals concerned.

Chapter III—General Provisions

ARTICLE 43

The tax regime for canteens and military restaurants shall be the subject of special agreements between the Community and the State where such establishments are located.

ARTICLE 44

The Community shall furnish all useful assistance in the tax and customs fields to the member States which shall so request.

ARTICLE 45

The details of application of the general principles enunciated in this Convention shall be established by a special tax agreement which shall recapitulate, complete and elaborate upon the provisions of this Convention. This agreement shall be drafted by the Commissariat and approved by the Council by unanimous vote. The details of application of this Convention may also, if necessary, be established by agreements between the Community and the member States.

TITLE IV—FINAL DISPOSITIONS

ARTICLE 46

The definitions contained under Title IV of the Jurisdictional Protocol[1] annexed to the Treaty instituting the European Defense Community shall apply to the present Convention.

ARTICLE 47

The regulations of the Treaty defining the operation of the institutions of the Community shall apply as concerns their intervention such as it is provided for under the present Convention.

In particular, recourse to the Court is open within the framework of the present Convention in the cases and in the conditions where such recourse would be open under the terms of the Treaty.

ARTICLE 48

Any State which shall be party to the Treaty under the conditions provided for in Article 129 of said Treaty, shall be party to the present Convention.

ARTICLE 49

The present Convention shall be ratified, the instruments of ratification shall be deposited with the Government of the French Republic which shall notify such deposit to the Governments of the other member States.

ARTICLE 50

The present Convention will enter into effect at the same time as the Treaty establishing the European Defense Community.

[MULTILATERAL PROTOCOLS, CONVENTIONS AND EXCHANGES OF LETTERS RELATIVE TO THE TREATY ESTABLISHING THE EUROPEAN DEFENSE COMMUNITY, NOT REPRINTED HERE

(a) Protocol Relative to the Grand Duchy of Luxembourg, May 27, 1952.[2]

(b) Conditions of Remuneration and Pension Rights of the Civil and Military Personnel Employed by the Community, May 27, 1952.[3]

(c) Agreement Provided for in Article 107 (Paragraph 4–B), May 27, 1952.[4]

(d) Protocol on Military Penal Law, May 27, 1952.[5]

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[1] *Supra*, pp. 1183–1184.

[2] S. Execs. Q and R, 82d Cong., 2d sess., p. 225.

[3] *Ibid.*, pp. 229–230.

[4] *Ibid.*, p. 231.

[5] *Treaty Establishing the European Defense Community and Related Protocols* (Office of the U.S. Special Representative in Europe, Paris, Jan. 26, 1953), p. 37.

(e) **Exchange of Letters Between the Government of the Federal Republic of Germany and the Governments of the Co-Signatory States to the Treaty Constituting the European Defense Community Concerning Article 107 of the Treaty, May 27, 1952.**[1]]

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28. TRIPARTITE DECLARATION, MAY 27, 1952[2]

The Governments of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have signed conventions with the German Federal Republic which will establish a new relationship with that country.[3] These conventions, as well as the treaties for a European Defense Community[4] and a European Coal and Steel Community,[5] of which France is a signatory, provide a new basis for uniting Europe and for the realization of Germany's partnership in the European Community. They are designed to prevent the resurgence of former tensions and conflicts among the free nations of Europe and any future revival of aggressive militarism. They make possible the removal of the special restraints hitherto imposed on the Federal Republic of Germany and permit its participation as an equal partner in Western defense.

These conventions and treaties respond to the desire to provide by united efforts for the prosperity and security of Western Europe. The Governments of the United Kingdom and the United States consider that the establishment and development of these institutions of the European Community correspond to their own basic interests and will therefore lend them every possible cooperation and support.

Moreover, Western Defense is a common enterprise in which the Governments of the United Kingdom and the United States are already partners through membership of the North Atlantic Treaty Organization.

These bonds are now strengthened by the system of reciprocal guarantees agreed to between the member States of the European Defense Community, between these member States and the United Kingdom[6] and also between these member States and the member States of the North Atlantic Treaty Organization.[7]

For these various reasons, including the fact that these new guarantees will apply to the States concerned only as members of one or the other of these organizations, the Governments of the United Kingdom and the United States have an abiding interest, as has the Government of France, in the effectiveness of the treaty creating the European Defense Community and in the strength and integrity of that Community. Accordingly, if any action from whatever quarter threatens the integrity or unity of the Community, the two Governments will regard this as a threat to their own security. They will act in accordance with Article 4 of the North Atlantic Treaty.[1] Moreover, they have each expressed their resolve to station such forces on the continent of Europe, including the Federal Republic of Germany, as they deem necessary and appropriate to contribute to the joint defense of the North Atlantic Treaty area, having regard to their obligations under the North Atlantic Treaty, their interest in the integrity of the European Defense Community, and their special responsibilities in Germany.

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[1] *Treaty Establishing the European Defense Community, etc.*, . . . p. 55.

[2] S. Execs. Q and R, 82d Cong., 2d sess., pp. 253–254.

[3] For the texts of these conventions, see *ibid.*, pp. 9–22, 25–165.

[4] *Supra*, docs. 16–27.

[5] *Supra*, docs. 12–15.

[6] *Supra*, doc. 22.

[7] *Supra*, doc. 23.

The security and welfare of Berlin and the maintenance of the position of the three powers there are regarded by the three powers as essential elements of the peace of the free world in the present international situation. Accordingly, they will maintain armed forces within the territory of Berlin as long as their responsibilities require it. They therefore reaffirm that they will treat any attack against Berlin from any quarter as an attack upon their forces and themselves.

These new security guarantees supersede the assurances contained in the declaration of the Foreign Ministers of France, the United Kingdom and the United States at New York on September 19th, 1950.[2]

. . . .

29. STATEMENT BY THE PRESIDENT ON UNITED STATES POLICY RESPECTING THE RELATIONSHIP BETWEEN THE EUROPEAN DEFENSE COMMUNITY AND THE NORTH ATLANTIC TREATY ORGANIZATION, APRIL 15, 1954 [3]

Following is the text of a message which the President sent to the Prime Ministers of the six nations signatory to the European Defense Community—Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands.

As the time approaches for historic decision on the remaining measures required to put into effect the European Defense Community Treaty, it is appropriate for me to state clearly the United States position on the relation between the European Army and the European Community on the one hand, and the North Atlantic Treaty Organization and the broader Atlantic Community on the other hand. The essential elements of this position, which have been discussed with leaders of both political parties in the Congress, may be simply stated.

The United States is firmly committed to the North Atlantic

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[1] *Supra*, p. 813.

[2] *Infra*, pp. 1711–1713.

[3] Department of State *Bulletin*, Apr. 26, 1954, pp. 619–620.

Treaty. This Treaty is in accordance with the basic security interests of the United States and will steadfastly serve those interests regardless of the fluctuations in the international situation or our relations with any country. The obligations which the United States has assumed under the Treaty will be honored.

The North Atlantic Treaty has a significance which transcends the mutual obligations assumed. It has engendered an active practical working relationship among the Atlantic nations. Through the North Atlantic Treaty Organization, the United States and its allies are working to build the concrete strength needed to deter aggression and, if aggression occurs, to halt it without devastation or occupation of any NATO country. These nations are also seeking to make the Atlantic alliance an enduring association of free peoples, within which all members can concert their efforts toward peace, prosperity, and freedom.

The European Defense Community will form an integral part of the Atlantic Community and, within this framework, will ensure intimate and durable cooperation between the United States forces and the forces of the European Defense Community on the continent of Europe. I am convinced that the coming into force of the European Defense Community Treaty will provide a realistic basis for consolidating western defense and will lead to an ever-developing community of nations in Europe.

The United States is confident that, with these principles in mind, the Western European nations concerned will proceed promptly further to develop the European Community through ratification of the European Defense Community Treaty. When that Treaty comes into force the United States, acting in accordance with its rights and obligations under the North Atlantic Treaty, will conform its actions to the following policies and undertakings:

(1) The United States will continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to that area exists, and will continue to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area.

(2) The United States will consult with its fellow signatories to the North Atlantic Treaty and with the European Defense Community on questions of mutual concern, including the level of the respective armed forces of the European Defense Community, the United States and other North Atlantic Treaty countries to be placed at the disposal of the Supreme Commander in Europe.

(3) The United States will encourage the closest possible integration between the European Defense Community forces on the one hand, and United States and other North Atlantic Treaty forces on the other, in accordance with approved plans with respect to their command, training, tactical support, and logistical organization developed by

the military agencies and the Supreme Commanders of the North Atlantic Treaty Organization.

(4) The United States will continue, in conformity with my recommendations to the Congress, to seek means of extending to the Atlantic Community increased security by sharing in greater measure information with respect to the military utilization of new weapons and techniques for the improvement of the collective defense.

(5) In consonance with its policy of full and continuing support for the maintenance of the integrity and unity of the European Defense Community, the United States will regard any action from whatever quarter which threatens that integrity or unity as a threat to the security of the United States. In such event, the United States will consult in accordance with the provisions of Article 4 of the North Atlantic Treaty.

(6) In accordance with the basic interest of the United States in the North Atlantic Treaty, as expressed at the time of ratification, the Treaty was regarded as of indefinite duration rather than for any definite number of years. The United States calls attention to the fact that for it to cease to be a party to the North Atlantic Treaty would appear quite contrary to our security interests when there is established on the Continent of Europe the solid core of unity which the European Defense Community will provide.

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30. FINAL COMMUNIQUÉ OF THE BRUSSELS CONFERENCE OF FOREIGN MINISTERS OF THE PROPOSED EUROPEAN DEFENSE COMMUNITY, AUGUST 22, 1954[1]

Following is an unofficial translation of the communiqué issued at Brussels on August 22 following the conference held by the Foreign Ministers of Belgium, France, the Federal Republic of Germany, Italy, Luxembourg, and the Netherlands.

The representatives of the six governments signatory to the EDC treaty met at Brussels on August 19, 20, and 22, 1954.

Despite a long discussion on the modifications which, according to the French Government, must be made in the EDC treaty, they have not reached an agreement.

They have noted that the principal aims of their European policy remain unchanged:

—To draw closer European cooperation in order to protect Western Europe against the forces which menace it;
—To avoid any neutralization of Germany;
—To contribute to the unification of Germany and to its participation in the common defense;
—To foreshadow a political and economic formula of western integration.

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[1] Department of State *Bulletin*, Sept. 6, 1954, p. 332; see also the President's statement of Mar. 10, 1955, *supra*, doc. 7.

The Ministers have decided to publish jointly:

(A) The draft protocol applying to EDC presented by the French Government.[1]

(B) The draft declaration for interpreting and applying the EDC treaty, proposed by the foreign ministers of the Federal Republic of Germany, Belgium, Italy, Luxembourg, and the Netherlands, in reply to the French proposals.[2]

The European [Political] Community

31. DRAFT TREATY EMBODYING THE STATUTE, MARCH 10,1953 [3]

PREAMBLE

WE, THE PEOPLES OF THE FEDERAL REPUBLIC OF GERMANY, THE KINGDOM OF BELGIUM, THE FRENCH REPUBLIC, THE ITALIAN REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG AND THE KINGDOM OF THE NETHERLANDS,

CONSIDERING that world peace may be safeguarded only by creative efforts equal to the dangers which menace it;

CONVINCED that the contribution which a living, united free Europe can bring to civilization and to the preservation of our common spiritual heritage is indispensable to the maintenance of peaceful relations;

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[1] Text printed in *Documentation française*, Series *Articles et Documents*, No. 097, Aug. 24, 1954.

[2] *Ibid.*

[3] *Draft Treaty Embodying the Statute of the European Community: Information and Official Documents of the Constitutional Committee, October 1952–April 1953* (Paris, 1953), pp. 53–125, 141–143. As of Dec. 31, 1955, had not entered into force.

Through the inspiration of the Consultative Assembly of the Council of Europe, in its Resolution No. 14 of May 30, 1952 (*ibid.*, pp. 23–25), immediately following the signature of the Treaty of European Defense Community, and as a result of a resolution of Sept. 10, 1952 [*ibid.*, pp. 26–29] by the six Ministers for Foreign Affairs of the European Coal and Steel Community (ECSC) meeting at Luxembourg, the Common Assembly of the ECSC accepted the invitation contained in the resolution and formed itself (coopting additional members from the Assembly of the Council of Europe) into an *ad hoc* Assembly to draft a treaty setting up a European Political Community, on the basis of the principles contained in Article 38 of the Treaty of the European Defense Community (*supra*, p. 1119). A Constitutional Committee, various subcommittees, and a Working Party were formed, and various meetings were held from Sept. 15, 1952, until Feb. 25, 1953, resulting in a draft treaty which was submitted to the *ad hoc* Assembly. This meeting, held at Strasbourg, Mar. 6–10, 1953, adopted, with certain amendments, the draft treaty, which was then officially handed over to the six Ministers for Foreign Affairs of the ECSC. The Constitutional Committee and the Working Party continued to function after the session, for the purpose of facilitating consideration by the governments involved and also later examination of the draft treaty by the Consultative Assembly of the Council of Europe. [The preceding is a summary of the "Introduction," *ibid.*, pp. 9–19.]

DESIROUS of assisting through the expansion of our production in improving the standard of living and furthering the works of peace;

DETERMINED to safeguard by our common action the dignity, freedom and fundamental equality of men of every condition, race or creed;

RESOLVED to substitute for our historic rivalries a fusion of our essential interests by creating institutions capable of giving guidance to our future common destiny;

DETERMINED to invite other European peoples, inspired with the same ideal, to join with us in our endeavour;

HAVE DECIDED to create a European Community.

Wherefore our respective Governments, through their Plenipotentiaries, meeting in the city of . . . . , with powers found in good and due form, have adopted the present Treaty.

PART I.

THE EUROPEAN COMMUNITY

Article 1

The present Treaty sets up a EUROPEAN COMMUNITY of a supra-national character.

The Community is founded upon a union of peoples and States, upon respect for their personality and upon equal rights and duties for all. It shall be indissoluble.

Article 2

The Community has the following mission and general aims:

— to contribute towards the protection of human rights and fundamental freedoms in Member States;

— to co-operate with the other free nations in ensuring the security of Member States against all aggression;

— to ensure the co-ordination of the foreign policy of Member States in questions likely to involve the existence, the security or the prosperity of the Community;

— to promote, in harmony with the general economy of Member States, the economic expansion, the development of employment and the improvement of the standard of living in Member States, by means, in particular, of the progressive establishment of a common market, transitional or other measures being taken to ensure that no fundamental and persistent disturbance is thereby caused to the economy of Member States;

— to contribute towards the endeavours of Member States to achieve the general objectives laid down in the Statute of the Council of Europe,[1] the European Convention for Economic Co-operation,[2] and the North Atlantic Treaty,[1] in co-operation with the other States parties thereto.

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[1] *Supra,* doc. 9.

[2] *Supra,* doc. 8.

Article 3

The provisions of Part 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4th November 1950,[2] together with those of the protocol signed in Paris on 20th March 1952,[3] are an integral part of the present Statute.

Article 4

The Community shall have juridical personality.

In international relationships the Community shall enjoy the juridical personality necessary to the exercise of its functions and the attainment of its ends.

In each of the Member States the Community shall enjoy the most extensive juridical personality which is recognized for legal persons of the nationality of the country in question. Specifically, it may acquire, or transfer, immovable and movable assets and may sue and be sued in its own name.

The Community shall possess, in the territories of the Member States, such immunities and privileges as are necessary to the fulfilment of its task, under conditions determined in the Protocol appended to the present Treaty.[4]

Article 5

The Community, together with the European Coal and Steel Community and the European Defence Community, shall constitute a single legal entity, within which certain organs may retain such administrative and financial autonomy as is necessary to the accomplishment of the tasks assigned by the treaties instituting the European Coal and Steel Community[5] and the European Defence Community.[6]

Article 6

The Community shall exercise all such powers and competence as are conferred upon it by the present Statute or by subsequent enactment.

The provisions defining the powers and competence conferred upon the Community by the present Treaty shall be restrictively interpreted.

Article 7

The Community shall carry out its functions in close co-operation with the national civil services, through their respective governments, and with any international organization having objectives similar to its own.

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[1] *Supra,* pp. 812–815.

[2] United Nations *Yearbook on Human Rights, 1950,* pp. 420–426.

[3] *Ibid., 1952,* pp. 411–412.

[4] Not reprinted here.

[5] *Supra,* docs. 12–14.

[6] *Supra,* doc. 16.

Article 8

The Community shall enact legislation defining the fundamental principles of the general status of its officials.

PART II.

THE INSTITUTIONS OF THE COMMUNITY

Article 9

The institutions of the Community shall be:
— Parliament;
— the European Executive Council;
— the Council of National Ministers;
— the Court of Justice, hereinafter termed "the Court";
— the Economic and Social Council.

Chapter I

PARLIAMENT

Article 10

Parliament shall enact legislation and make recommendations and proposals. It shall also approve the budget and pass a bill approving the accounts [1] of the Community. It shall exercise such powers of supervision as are conferred upon it by the present Statute.

Article 11

Parliament shall be composed of two Chambers which, unless the present Statute otherwise provides, shall have the same powers and competence.

The first Chamber, entitled the Peoples' Chamber, shall be composed of deputies representing the peoples united in the Community.

The second Chamber, entitled the Senate, shall be composed of senators representing the people of each State.

Article 12

Deputies and senators shall vote as individuals and in person.

They may not accept any mandate as to the way in which they shall cast their votes.

Article 13

Deputies shall be elected by universal, equal and direct suffrage, by secret ballot open to both men and women.

The Community shall enact legislation defining the principles of the electoral system.

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[1] La loi des comptes. [Footnote in original.]

Article 14

The Peoples' Chamber shall be elected for five years, subject to the provisions of Article 31, paragraphs 4 and 5.

Article 15

The peoples united in the Community shall be represented in the Peoples' Chamber in accordance with the following conditions:

1. The number of deputies elected from the territory of a Member State may not be less than 12 nor more than 70.
2. An equal number of deputies shall be elected from the territories of Germany, France and Italy. Additional representation shall, however, be granted to the French Republic in order to take into account its oversea departments and territories, under conditions to be laid down by French legislation.

An equal number of deputies shall be elected from the territories of Belgium and the Netherlands.

3. The number of deputies elected from the territories of the Member States shall be as follows:

Germany	63
Belgium	30
France	70
Italy	63
Luxembourg	12
Netherlands	30

Article 16

1. Senators shall be elected by the national Parliaments for five years in accordance with the procedure determined by each Member State.
2. A senator shall commence his term of office at the opening of the session of the Senate next following his election.

Article 17

The number of senators shall be as follows:

Germany	21
Belgium	10
France	21
Italy	21
Luxembourg	4
Netherlands	10

Article 18

Each Chamber of Parliament shall verify the regularity of the election of its Members.

Article 19

The Community shall enact legislation determining the conditions of eligibility for membership of Parliament.

Article 20

1. Membership of the European Parliament shall not be confined to members of national Parliaments.
2. A combination of the office of a senator with that of a deputy shall be prohibited.
3. The exercise of the functions of a Member of Parliament of the Community shall be incompatible with that of the functions of a Member of the Council of National Ministers and of a Member of the Economic and Social Council.
4. The exercise of the functions of a Member of Parliament of the Community shall be incompatible with the holding of judicial office on behalf of the Community, with permanent functions remunerated by the Community or with directorial functions in an enterprise or organization directly controlled by the Community.
5. The Community may enact legislation laying down other rules as to incompatibility.

Article 21

Parliament shall hold two ordinary sessions annually. It shall assemble regularly on the second Tuesday in May and the last Tuesday in October.

An extraordinary session of either Chamber may be convened by its President, either on his own initiative, or at the request of a quarter of the Members of the Chamber concerned, or of the European Executive Council.

Article 22

Each Chamber shall elect its President and its Bureau from among its own Members, by secret ballot. It shall decide upon its Rules of Procedure by majority vote of its Members.

The records of the proceedings of each Chamber shall be published in accordance with the conditions laid down in its Rules of Procedure.

Article 23

1. Members of Parliament and of the European Executive Council shall have the right to initiate legislation.
2. Members of Parliament shall have the right of amendment and interpellation. They may put oral or written questions to the European Executive Council, which shall be required to answer them.
3. Each Chamber shall receive and examine any petitions which may be addressed to it. Such petitions may not be presented in person.
4. Each Chamber shall have the right to institute inquiries. The Community shall enact legislation governing the exercise of this right.

Article 24

1. Members of the European Executive Council may attend all meetings of each of the Chambers. They shall be heard if they so request. They may take part in the work of the Committees.

2. Members of the Council of National Ministers may attend all meetings of each of the Chambers. The President of the Council of National Ministers, or a member of the Council specially appointed to represent him, may be heard on behalf of the Council by each of the Chambers, either at the request of the latter, or on his own initiative.

Article 25

1. No restriction shall be placed upon the travel of Members of Parliament proceeding to or coming from the place of meeting of Parliament.

As concerns customs and exchange control, Members of Parliament shall be granted the privileges accorded to accredited Heads of diplomatic Missions; they shall be exempted from the visa regulations in force in Member States.

2. During their term of office, Members of Parliament shall enjoy exemption from all measures of detention and from any legal prosecution.

Such immunity may not be invoked when Members are found committing, attempting to commit, or just having committed an offence.

Each Chamber of Parliament may waive the immunity of its Members.

3. Members of Parliament shall enjoy absolute immunity from legal action in respect of opinions or votes expressed by them in the exercise of their functions. They shall continue to enjoy this immunity after the expiry of their term of office.

Article 26

Each Chamber shall lay down in its Rules of Procedure the manner in which it will exercise its powers and competence.

Chapter II

THE EUROPEAN EXECUTIVE COUNCIL

Article 27

The European Executive Council shall undertake the general administration of the Community. It shall have no powers other than those conferred upon it by the present Statute.

Article 28

1. The Senate shall elect the President of the European Executive Council in secret ballot, by majority vote of its Members.

2. The President shall appoint the other Members of the European Executive Council.

3. The European Executive Council shall not include more than two Members of the same nationality.
4. The Members of the European Executive Council shall have the title of Ministers of the European Community.

Article 29

Only nationals of Member States may be Members of the European Executive Council.

Article 30

1. The office of a member of the European Executive Council shall be incompatible with that of a member of the Government of a participating State, of a judge or solicitor-general in the Court or of a member of the Economic and Social Council.
2. Members of the European Executive Council may not exercise any paid function.

They may belong neither to the management nor the Board of Directors of any enterprise conducted for profit.

Article 31

1. The European Executive Council shall assume its functions as soon as its composition has been published in the Official Journal of the Community. It shall forthwith request the Peoples' Chamber and the Senate for their vote of confidence, which shall be given by each Chamber by majority vote of its members.
2. The European Executive Council shall remain in office until the end of the life of the current Peoples' Chamber. It shall resign from office notwithstanding, if a vote of no confidence is passed against it by the Peoples' Chamber or the Senate. It shall also be required to resign if the Peoples' Chamber or the Senate refuses to grant its request for a vote of confidence.
3. The Senate shall be deemed to have passed a vote of no confidence in the European Executive Council if it elects a new President, under the provisions of the first paragraph of Article 28.

The Peoples' Chamber shall pass a vote of no confidence in the European Executive Council by a three-fifths majority vote of its members.

Subject to the provisions of paragraph 1 of the present article, the withholding of a vote of confidence, if it is to be effective, must take place under the same conditions as a vote of no confidence.

4. If a motion of no confidence, or alternatively the withholding of a vote of confidence which has been requested of the Peoples' Chamber by the European Executive Council, is voted by a majority of less than three-fifths of the members of the Chamber, it shall be at discretion of the European Executive Council either to resign or to declare the Chamber dissolved.

Such dissolution may not be ordered until after the expiry of a period of five clear days. The instrument of dissolution shall include convocation of the electoral body of the Peoples' Chamber within a period of forty days, and of the Chamber within two months.

The withholding of a vote [of] confidence by the Peoples' Chamber shall not, however, entail the option of dissolving the Chamber in the case mentioned in paragraph I of the present Article.

5. The right of the European Executive Council to order the dissolution of the Peoples' Chamber in implementation of the preceding paragraph shall lapse if, within the period determined in that paragraph, the Senate passes a vote of no confidence in the European Executive Council under the conditions laid down in paragraph 3 of the present Article.

6. The President of the European Executive Council shall tender the resignation of the Council to the President of the Senate. The retiring Council shall conduct current business until its successor takes up office.

7. The members of the European Executive Council shall resign in a body if and when the President ceases to exercise his functions.

Article 32

The President of the European Executive Council may dismiss or replace any Member of that Council subject to the approval of the Peoples' Chamber and the Senate.

Article 33

In order to fulfil the tasks entrusted to it, and in accordance with the conditions laid down in the present Statute, the European Executive Council shall take decisions, make recommendations or express opinions.

Decisions shall be binding in all aspects.

Recommendations shall have binding effect as regards the aims specified therein, but shall leave the means of implementation to the Authorities to whom the recommendation is addressed.

Opinions shall not be binding.

Article 34

The President of the European Executive Council shall represent the Community in international relations.

Chapter III

THE COUNCIL OF NATIONAL MINISTERS

Article 35

The Council of National Ministers shall exercise its powers and competence in the cases specified and in the manner indicated in the present Statute with a view to harmonising the action of the European Executive Council with that of the Governments of Member States.

The Council of National Ministers and the European Executive Council shall exchange information and consult each other.

Article 36

The Council of National Ministers shall be composed of representatives of the Member States. Each State shall delegate a member of its Government as a representative.

The Chairmanship shall be taken by each of the Members of the Council in turn for a period of three months, in accordance with the alphabetical order of the names of the Member States.

Article 37

The Council of National Ministers shall be convened by its Chairman at the request of a Member State or of the European Executive Council.

The Council of National Ministers shall communicate with each Member State through the Minister representing the latter.

Chapter IV

THE COURT

Article 38

1. The Court shall ensure the rule of law in the interpretation and application of the present Statute and of the laws and regulations of the Community.
2. The Court of the Community shall be identical with the Court of the European Coal and Steel Community and of the European Defence Community, thus ensuring unity of jurisprudence.[1]
3. Other courts set up by existing or subsequent treaties shall assist the Court in the exercise of its functions.

Article 39

1. The number of judges shall not exceed fifteen.

   They shall be selected from a double list by the European Executive Council, acting with the approval of the Senate. Each Member State may put forward three candidates; the national groups of the Permanent Arbitration Court in each Member State shall be entitled to exercise a similar right.
2. The candidates must be of the highest moral character, and must either possess the qualifications required, under their national legislation, for the exercise of the highest judicial functions, or be jurists of unquestionable ability.
3. Judges shall be appointed for nine years and shall be re-eligible. Nevertheless, the first seven judges shall cease to exercise their functions at the expiry of the period for which provision is made in the treaty instituting the European Coal and Steel Community.
4. The Court shall have exclusive jurisdiction in disciplinary proceedings against its own members.
5. The judges shall be independent and subject only to the law.

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[1] See title II, chapter IV of docs. 12 and 16, *supra*, pp. 1049–1052 and 1122–1125, respectively.

Article 40

1. The texts relating to the competence of the Court and the organisation of the judicial system shall be supplemented and modified in accordance with Articles 112 or 113. Nevertheless, should such modification entail an alteration in the powers and competence of the Community vis-à-vis the Member States, the provisions of Article 111 shall be applicable.
2. Notwithstanding the provisions in the preceding paragraph, the Court shall lay down its own Rules of Procedure.

Article 41

1. The Court shall in its own right take cognisance of disputes arising out of the application or interpretation of the present Statute or of a law of the Community, to which the parties are
   — either Member States among themselves,
   — or one or more Member States and the Community.
2. The Court shall take cognisance, through the machinery provided for the hearing of appeals, of the judgments or decisions delivered by the judicial organs of the Community, all of which are subordinate to it.

Article 42

1. The Court shall take cognisance in first and final instance of all appeals formally lodged against the Community, except when provision is made to the contrary in the present Statute or in a law of the Community conferring this competence on another Court.
2. The Court shall pass judgment on disputes arising from the application of the Treaties instituting the European Coal and Steel Community and the European Defence Community in accordance with the provisions of those Treaties.

Article 43

The Court shall have jurisdiction to pass judgment on appeals for annulment on grounds of lack of competence, substantial procedural violations, violation of the Statute or of any regulation concerning its application, or abuse of power, where such appeals are lodged by any interested party against the decisions or recommendations of the European Executive Council or of the administrative authorities subordinate thereto.

Article 44

The Court shall have sole jurisdiction to decide on the validity of decisions or recommendations of the European Executive Council and of deliberations of the Council of National Ministers, in cases where such validity is contested in litigation before a national Court.

Article 45

1. Any dispute arising from a decision or measure taken by one of the Institutions of the Community, which affects the rights recognised in

the Convention for the Protection of Human Rights and Fundamental Freedoms,[1] shall be referred to the Court.

2. If an appeal is lodged with the Court under the conditions mentioned in the preceding paragraph by a natural or legal person, such appeal shall be deemed to be lodged in accordance with the terms of Article 26 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

3. After the establishment of the legal machinery for which provision is made in the Convention for the Protection of Human Rights and Fundamental Freedoms, should any dispute arise which involves a question of principle as to the interpretation or extent of the obligations resulting from the said Convention and which consequently affects all the Parties thereto, the Court shall renounce judgment, if necessary, until the question of principle has been settled by the judicial organs for which provision is made in the Convention.

Article 46

The Member States undertake not to avail themselves of any mutual declarations or conventions existing among them to submit any difference arising out of the interpretation or application of the present Treaty to a method of settlement other than those provided for herein.

Article 47

The Court may also, by virtue of the present Statute or a law of the Community, be empowered to act as an Arbitration Court.

Article 48

The judicial organs of the Community and those of Member States shall assist each other in the exercise of their functions.

Article 49

Appeals lodged with the Court shall have no suspensory effect. Notwithstanding this provision the Court may, if it considers that circumstances so demand, order a stay of execution of the decision or recommendation which is the subject of the appeal.

The Court may also order any other interim measures which it deems necessary.

Chapter V

THE ECONOMIC AND SOCIAL COUNCIL

Article 50

The Economic and Social Council shall assist the European Executive Council and Parliament in an advisory capacity.

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[1] See the footnotes to article 3, *supra*, p. 1203.

It shall deliver opinions to each of the Chambers of Parliament and the European Executive Council, if they so request. It may also transmit resolutions to them.

Article 51

The Community shall enact legislation establishing the membership, competence and *modus operandi* of the Economic and Social Council.

If an Economic and Social Council is set up by the Council of Europe, agreements shall be concluded to enable the Economic and Social Council of the Community to constitute a section of the Council thus created, and to take part in its deliberations. Where necessary, however, the Economic and Social Council of the Community shall be separately consulted.

Chapter VI

LEGISLATION

Article 52

1. The passing of legislation shall require the assent of each of the two Chambers in succession by simple majority.

2. After the adoption of a bill by the two Chambers a second deliberation shall be held automatically in the Peoples' Chamber and in the Senate if requested by one quarter of the Members of the Senate within three clear days.

The second deliberation shall begin ten clear days after the request has been made.

A second deliberation in accordance with this procedure may not be requested more than once on the same bill.

3. A bill shall be considered as finally passed into law after it has been approved at a second deliberation, or, if no admissible request for a second deliberation has been made, at the expiry of the period of three clear days laid down in § 2 of the present Article.

4. Laws shall be promulgated by the President of the European Executive Council within a period of eight clear days from the day on which they are finally voted in accordance with the provisions of § 3.

Before the expiry of this period the President of the European Executive Council may request Parliament to hold a new debate.

5. Laws shall be published in the Official Journal of the Community. They shall have executive effect at such time and under such conditions as shall be laid down in legislation enacted by the Community.

Article 53

The European Executive Council may issue regulations to ensure the implementation of the laws of the Community.

The European Executive Council and the Authorities of each Member State shall be charged, as they are each and severally affected, with the execution of the Community's legislation and of the regulations of the European Executive Council.

Article 54

Under the conditions and within the limits in which it is entitled to legislate, Parliament may also make recommendations which shall be binding as regards the aims specified therein, but shall leave the means of implementation to the Authorities to whom the recommendation is addressed.

Recommendations shall be adopted and promulgated in accordance with the procedure laid down in Article 52 for legislation of the Community.

PART III

POWERS AND COMPETENCE

Chapter I

GENERAL RIGHT OF INITIATIVE

Article 55

The Community may make proposals to the Member States with the object of attaining the general aims defined in Article 2.

Such proposals shall be made by the European Executive Council, either on its own initiative or as a result of a motion by Parliament or by one of the Chambers.

The European Executive Council may request Member States for information on the action which they have taken in regard to the proposals of the Community.

Chapter II

INTEGRATION OF THE EUROPEAN COAL AND STEEL COMMUNITY AND OF THE DEFENCE COMMUNITY

Article 56

The Community shall, with due regard to the provisions of Article 5, exercise the powers and competence of the European Coal and Steel Community and those of the European Defence Community.

Article 57

Subject to the provisions of Articles 5 and 56, the provisions of the Treaties instituting the European Coal and Steel Community and the European Defence Community[1] shall remain in force, except in the cases provided for in Articles 39, 58 to 65, 109 and 116, and in the Protocol on the privileges and immunities of the Community.

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[1] *Supra*, docs. 12 and 16.

Article 58

The decisions which the High Authority or the Board of Commissioners are authorized to take by virtue of the first paragraph of Article 95 of the Treaty instituting the European Coal and Steel Community and Article 124 of the Treaty instituting the European Defence Community must be submitted to Parliament for prior approval.

In urgent cases the measures taken shall be immediately submitted to Parliament for subsequent ratification.

Article 59

The integration of the European Coal and Steel Community and the European Defence Community shall be accomplished progressively during a period of adaptation not exceeding two years from the date of the constitution of the Peoples' Chamber.

Article 60

1. As soon as the Peoples' Chamber has come into being, the Common Assembly of the European Coal and Steel Community and the European Defence Community shall be replaced by the Parliament of the Community, which shall exercise the powers and competence of the former, except as laid down in the transitional provision embodied in sub-paragraph (ii) of paragraph 1 of Article 62.

2. When the present Treaty comes into force:

— The Council of National Ministers shall replace the special Councils of Ministers of the European Coal and Steel Community and the European Defence Community and shall exercise their powers and competence.

— The judicial powers provided for in the present Statute shall be exercised by the Court of Justice of the European Coal and Steel Community and of the European Defence Community.

Article 61

During the period laid down in Article 59, the High Authority of the European Coal and Steel Community and the Board of Commissioners[1] of the European Defence Community shall discharge their functions under the supervision and responsibility of the European Executive Council.

Article 62

1. During the period laid down in Article 59:

(i) The President of the High Authority of the European Coal and Steel Community and the President of the Board of Commissioners of the European Defence Community shall sit "ex officio" on the European Executive Council with the right to vote:

(ii) The President of the High Authority of the European Coal and Steel Community shall retain the status resulting from the treaty instituting the European Coal and Steel Community.

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[1] "Commissariat". [Footnote in original.]

The responsibility envisaged in Article 24 of that treaty may be questioned only before the Senate.

2. As soon as the first European Executive Council takes office, the Board of Commissioners of the European Defence Community shall be responsible to Parliament under the same conditions as the European Executive Council.

Article 63

At the expiry of the period laid down in Article 59, and with due regard to the provisions of Articles 5 and 56:

1. The European Executive Council shall be substituted for the Board of Commissioners of the European Defence Community and shall exercise the powers and competence thereof;

2. The High Authority of the European Coal and Steel Community shall continue to exist as an administrative body having the character of a board. Its members shall be appointed by the European Executive Council on proposals submitted by the Governments of the Member States. It shall discharge its functions under the direction and supervision of the European Executive Council.

Article 64

1. The budgetary and financial provisions of the treaty instituting the European Coal and Steel Community shall remain in force during the period laid down in Article 59.

2. Nevertheless, with effect from the date on which the Peoples' Chamber comes into being the budget of expenditure of the European Defence Community shall be voted by Parliament, under the conditions laid down in Article 76 of the present Treaty.

3. At the expiry of the period laid down in Article 59, the whole of the regulations embodied in Articles 75 to 81 shall come into force, subject to the proviso that the allotment of receipts resulting from the implementation of the Treaties instituting the European Coal and Steel Community and the European Defence Community shall be maintained.

Article 65

The European Executive Council, during the period laid down in Article 59, shall take such decisions as are necessary to ensure the implementation of Articles 5 and 56.

Should these measures involve the amendment of one or more provisions of the treaties instituting the European Coal and Steel Community and the European Defense Community, other than those already modified by the present Treaty, in particular by Articles 5, 56 and 59 to 64, such amendments shall be made in accordance with the provisions of Articles 110 to 115.

Article 66

Such provisions of the present Treaty as relate to the European Defence Community shall be applicable when both the present Treaty and the treaty instituting the European Defence Community shall have come into force.

Chapter III

INTERNATIONAL RELATIONS

Article 67

1. Within the limits of the powers and competence conferred upon it, the Community may conclude treaties or international agreements or accede thereto.
2. The Community may conclude treaties or agreements of association with third States, under the conditions prescribed in Articles 90 to 92.

Article 68

The European Executive Council shall negotiate and conclude treaties or international agreements on behalf of the Community.

Where such treaties or agreements relate to matters in which the present Statute provides for the assent of another institution of the Community, the European Executive Council may ratify them only when authorized so to do by the other institution concerned, acting in accordance with the procedure and conditions laid down for the exercise of its competence.

Article 69

In order to achieve the general aims laid down in Article 2, the Community shall ensure that the foreign policies of Member States are co-ordinated.

For this purpose the European Executive Council may be empowered, by unanimous decision of the Council of National Ministers, to act as common representative of the Member States.

Article 70

For the purposes defined in the previous article:

1. Representatives of Member States in the Council of National Ministers shall exchange information and institute a procedure for mutual and permanent consultation on all questions which affect the interests of the Community.
2. The European Executive Council may make proposals for this purpose to the Council of National Ministers. It shall have the right to be heard at all meetings of the Council of National Ministers when these proposals are examined.

the Governments of Member States on all matters affecting the interests of the Community.

The European Executive Council may, at the request of Parliament, invite the Council of National Ministers or the governments in question to make known what action has been taken on these proposals.

Article 71

The Community shall:

1. institute a procedure for consultations among the Member States, so that a common attitude may be adopted at any international conferences where the interests of the Community may be involved;
2. prepare a draft pact for the peaceful settlement of any disputes which may arise between the Member States and which do not come within the competence of the Court;
3. establish the procedure for conciliation and arbitration required for the implementation of Article 73;
4. draft other treaties or agreements among the Member States or between certain individual Member States.

The European Executive Council shall invite the Member States to implement such treaties or agreements in accordance with their usual constitutional procedure.

Article 72

Member States may not conclude treaties or international agreements which run counter to commitments entered into by the Community or adhere to such treaties or agreements.

Article 73

Member States shall inform the European Executive Council of any draft treaties or agreements which they are in process of negotiating, or of any initiative taken by them which affects the Community.

If the European Executive Council considers that any such draft or initiative is likely to impede the implementation of the present Statute or to affect the interests of the Community, and if no agreement with the State in question can be reached, the dispute shall, subject to any other procedure provided for in the present Statute, be submitted to conciliation or, if this is unsuccessful, to arbitration.

Article 74

The Community shall, to the extent required for the achievement of its aims and within the limits of its powers and competence, have the right to accredit and receive diplomatic representatives.

Chapter IV

FINANCIAL PROVISIONS

Article 75

1. The budget shall embrace the total receipts and expenditure of the Community. It shall be divided into Chapters.
2. The Community shall enact legislation defining the methods of presentation and implementation of the budget, together with the methods by which this implementation shall be supervised.

Article 76

1. The budget shall be proposed by the European Executive Council, subject to the provisions of Articles 78, 79 and 80.
2. The budget shall be voted annually by Parliament. Parliament may exercise its right of amendment only within the limits of the grand total of the proposed expenditure. It may not add new Chapters involving additional expenditure.
3. If the budget is not approved by Parliament before the beginning of the financial year, the European Executive Council may prolong the budget of the preceding year for a quarter at a time, until the new budget shall have been adopted. In that case, the provisions of Article 81, relating to the transfer of credits from one chapter to another, shall not be applicable.

Article 77

The financial resources of the Community shall be derived from:

— its own receipts, which include taxes, loans and various products of the Community;

— the contributions paid by Member States.

Article 78

1. The methods of determining the assessment, the rates of taxation and the manner in which the Community's taxes are levied shall be laid down by the European Executive Council in the form of bills, with the unanimous concurrence of the Council of National Ministers. Such bills shall be submitted to Parliament for approval. Their provisions shall be promulgated as legislation of the Community.
2. There shall be no exemption from taxes levied by the Community.

Article 79

No loan may be issued without the approval of Parliament, except such loans as fall due within less than one year when necessary to provide for the annual balancing of accounts by the Treasury.

Article 80

The basis for determining the contributions of Member States and the rate of contribution shall be unanimously decided by the Council of National Ministers, on the proposal of the European Executive Council.

Article 81

1. The European Executive Council shall implement the provisions of the budget, in accordance with the provisions of the legislation envisaged in Article 75. It may not transfer credits from one Chapter to another, unless authorized by Parliament so to do.
2. Not later than six months after the end of the financial year, the European Executive Council shall submit to Parliament a bill approving the accounts for that financial year.

Chapter V

ECONOMIC POWERS

Article 82

The Community, while upholding the principles defined in Articles 2, 3 and 4 of the Treaty instituting the European Coal and Steel Community, shall establish progressively a common market among the Member States, based on the free movement of goods, capital and persons.

In order to achieve the aim mentioned in the preceding paragraph, the Community shall foster the co-ordination of the policy of the Member States in monetary, credit and financial matters.

The Community shall have the power to take the measures rendered necessary by Articles 84 to 87.

Article 83

From the date on which the present Treaty becomes effective, nationals of Member States who have completed their service in the European defence forces shall have freedom of movement within the Community and freedom to choose their domicile in the territory of any Member State under the same conditions as are applicable to nationals of that State.

The same facilities shall be afforded to nationals of Member States born after the present Treaty has come into force.

Article 84

1. The Community may not exercise the powers conferred upon it by Article 82 until one year after the present Treaty has come into force.
2. At the expiry of the period mentioned in the preceding paragraph, and during a period of five years thereafter, the measures to be taken in application of Article 82 shall be embodied in proposals drawn up by the European Executive Council, with the unanimous concurrence of the Council of National Ministers who may consult, if need be,

their respective national Parliaments before delivering an opinion. Such proposals shall be submitted to the Parliament of the Community for approval. The provisions which they contain shall be enacted as legislation of the Community.

3. At the expiry of this period of five years, the measures to be taken in application of Article 82 shall be embodied in proposals drawn up by the European Executive Council, with the concurrence of the Council of National Ministers. Such proposals shall be submitted for approval to the Peoples' Chamber, voting by simple majority and to the Senate, voting by two-thirds majority. The provisions which they contain shall be enacted as legislation of the Community.

Article 85

1. In order to facilitate the progressive establishment of the common market envisaged in Article 82 a European Re-adaptation Fund shall be instituted, to enable assistance to be given where necessary to enterprises and workers, on lines similar to those laid down in Article 56 of the treaty instituting the European Coal and Steel Community.

Applications for assistance may also be made by the Governments of Member States.

2. The Fund shall be financed by:

(i) contributions from the Member States,
(ii) loans raised by the Community,
(iii) an annual levy at a rate not exceeding 5% of the value of orders placed in execution of the programmes referred to in Article 101 of the treaty instituting the European Defence Community.

The rate of the levy, within the limits defined above, and its assessment and collection shall be laid down in legislation to be enacted by the Community.

3. The Fund shall be administered by the European Executive Council under the supervision of Parliament.

The Economic and Social Council may be consulted on the administration and operation of the Fund.

Article 86

One or more Member States may appeal to the Arbitration Tribunal provided for in Article 73 or, prior to the date on which such tribunal is set up, to the Court, against the measures taken by the Community in implementation of paragraph 3 of Article 84, if they deem that such measures might cause fundamental and persistent disturbances to their economy.

The existence or imminence of such disturbances shall be confirmed, at the request of the Member State or States concerned, by the Court or Arbitration Tribunal. Until such time as the competent institution of the Community shall have taken appropriate steps to eliminate the disturbances, the Court or Arbitration Tribunal shall, at the request of the same State or States and in so far as that State or States are concerned, suspend application of the measures in question.

The Court or the Arbitration Tribunal shall pass summary judgment, notify the President of each Chamber that the appeal has been lodged, and state what decision it has taken.

Article 87

Member States shall consult the European Executive Council before concluding among themselves agreements likely to restrict the movement of labour and commodities, or before taking any measures, particularly in the monetary field, which might have similar effects.

Should the European Executive Council find that such agreements or measures conflict with the aims of the present Treaty, in particular those defined in Article 82, or that they are likely to cause fundamental and persistent disturbances to the economy of the other Member States or to entail the application of the measures specified in Article 67 of the treaty instituting the European Coal and Steel Community, it may, with the assent of the Council of National Ministers, address appropriate proposals to the Member States concerned.

Chapter VI

SPECIALIZED AUTHORITIES

Article 88

Within the framework of the mission and general aims laid down in Article 2, the Community may set up, or sponsor the creation of, administrative bodies, institutions, public services or services in the European public interest, or self-governing and financially independent organizations, centralized or decentralized; it may also exercise supervision over them.

Organizations of the Community for which provision is made in the preceding paragraph may be governed by any form of public or private law, or be subject to national or Community legislation.

In order to fulfil the tasks entrusted to it, the Community may also make use of existing services.

The Community shall enact legislation in implementation of the present Article.

Article 89

The Community may represent its Member States in any Specialized Authority or Community to which all such Member States belong.

PART IV.

ASSOCIATION

Article 90

The Community may conclude treaties or agreements of association in order to establish, in certain fields, close co-operation, involving reciprocal rights and obligations, with such third States as guarantee the protection of the human rights and fundamental freedoms mentioned in Article 3.

Such treaties or agreements may be concluded either with a European non-member State or, in accordance with the provisions of its Constitution, with an overseas State, having constitutional links either with a Member State or with a State which is already associated with the Community.

Should such treaty or agreement of association necessitate a revision of the present Statute, such revision shall be made in accordance with the provisions of Article 116.

Article 91

A treaty of association may provide *inter alia* for:

1. Participation in the Council of National Ministers of representatives of the Governments of the associated States, and participation in the Senate of representatives of the peoples of the associated States, either with full or with partial rights;

2. the creation of permanent joint committees on the governmental or parliamentary level;

3. the obligation to exchange information and undertake mutual consultation.

Article 92

The treaty of association shall provide for procedure to uphold the rule of law in the interpretation and application of the treaty of association.

The Court of the Community may be empowered by the treaty of association to settle differences between the Community and an associated State.

The Court and the other judicial organs of the Community may also be given competence to take cognizance of certain litigation concerning nationals of an associated State.

In such cases, and in accordance with the methods defined in the treaty of association, judges appointed by the associated State may sit in the judicial organs of the Community.

Article 93

The members of the European Executive Council, those of the Council of National Ministers and the representatives of the associated States shall periodically meet in conference.

PART V.

INAUGURATION OF THE INSTITUTIONS OF THE COMMUNITY

Article 94

The first Senate shall be constituted within a month after the present Treaty has come into force.

It shall be convened by the President of the Common Assembly of the European Coal and Steel Community.

Article 95 [1]

The Senate shall fix the date of the elections to the Peoples' Chamber. They shall take place within six months after the present Treaty comes into force.

Article 96

1. Until such time as the legislation envisaged in Article 13 has come into force, elections to the Peoples' Chamber shall take place in the territory of each Member State on a basis of proportional representation, the use of the "combined list" (apparentement) system being optional.

The procedure to be followed in each State shall be laid down by national legislation. Regulations concerning the electoral law, in particular the right of franchise, the electoral list, the organization and counting of votes, shall be laid down by legislation in each Member State.

2. Until such time as:

(i) the law on eligibility mentioned in Article 19;
(ii) the law on incompatibility mentioned in paragraph 5 of Article 20,

have come into force, the regulations concerning eligibility and incompatibility shall be laid down by the legislation of each Member State, subject to the reservation that paragraphs 1, 2, 3 and 4 of Article 20 shall be applied forthwith.

Article 97

The President of the Senate shall convene the Peoples' Chamber and the Senate within the fortnight following the date of the elections which shall be determined in accordance with the provisions of Article 95.

Article 98

As soon as the Peoples' Chamber has been constituted, the Senate shall elect the President of the European Executive Council.

Article 99

The Council of National Ministers shall meet as soon as the European Executive Council has taken up office.

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[1] After voting on this Article, the Assembly agreed to the recommendation of the Constitutional Committee "that the expenses of the first election to the Peoples' Chamber be borne by the Community, subject to such precautions and safeguards as the Community shall stipulate". [Footnote in original.]

PART VI.

GENERAL PROVISIONS

Article 100

1. The seat of the various Institutions of the Community shall be determined by Parliament within a period of one year from the date on which the Peoples' Chamber comes into being.

2. Each Chamber shall vote by a two-thirds majority of its Members.

3. As an appendix to the law which they adopt, a Protocol shall be issued by the European Executive Council, placing the location or locations selected under the exclusive jurisdiction of the Community. Before this law is voted, the Protocol must be agreed between the European Executive Council and the Government or Governments of the State or States whose territory is affected.

4. Pending the decision for which provision is made in paragraph 1 of the present Article, the Institutions of the Community shall have their provisional seat at Strasbourg.

Article 101 [1]

1. Unless any Member State concerned makes a declaration to the contrary before signature of the Treaty, the provisions of the Statute shall apply to all territories under the jurisdiction of each State.

2. Laws, recommendations and all other decisions of the Community, together with the treaties concluded by the latter, shall not be applicable to non-European territories except with such adaptations as may be laid down by the Member State under whose jurisdiction they fall.

3. The provisions of the Statute may be extended in whole or in part, by means of separate protocols, to the territories mentioned in the declaration provided for in paragraph 1, and also to States, countries or territories for whose international relations a Member State or an Associated State is responsible.

Article 102 [2]

Article 103

When a Member State regains jurisdiction over a territory which formed part of that State on 31 December 1937, the present Statute shall *ipso facto* become applicable to the said territory.

Any adjustments to the composition of the Peoples' Chamber which might result from this situation shall be made by means of the procedure provided in Article 112.

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[1] For proposed amendments to this article, see Appendix I, *infra*, p. 1230.

[2] This Article was referred, with the relevant Amendments, to the Special Council of Ministers of the European Coal and Steel Community. (See Appendix I, *infra*, pp. 1229–1230.)

Article 104

Member States may request the European Executive Council for assistance in maintaining constitutional order and democratic institutions within their territory.

The European Executive Council, with the unanimous concurrence of the Council of National Ministers, shall lay down the conditions under which the Community shall be empowered to intervene on its own initiative. The relevant provisions shall take the form of a bill to be submitted to Parliament for approval within one year from the date of the coming into being of the Peoples' Chamber. They shall be enacted as legislation of the Community.

Article 105

The Member States pledge themselves to take all measures necessary to implement the laws, regulations, decisions and recommendations of the Community and to assist the Community in the accomplishment of its mission.

The Member States further undertake to refrain from any measure incompatible with the provisions of the present Statute.

Article 106

The decisions of the European Executive Council and the judgements of the Court shall have executive force in the territory of the Member States.

Enforcement in the territory of the Member States shall be ensured through the normal legal channels of each State. It shall be preceded by the customary executive formula employed in the State within whose territory the decision is to be enforced, there being no intervention by the national authorities other than a verification of the authenticity of the decision. This formality shall be entrusted to a Minister appointed for the purpose by each Government.

Article 107

Liaison between the Institutions of the Community and the Council of Europe shall be ensured in accordance with the provisions of the Protocol appended to the present Treaty.

Article 108

1. In the present Treaty the words "the present Treaty" shall be interpreted to mean the clauses of the Treaty and its appendices.
2. In the present Treaty, the words "the present Statute" shall be interpreted to mean the clauses of the present Treaty as defined in the preceding paragraph, together with the provisions of the treaty instituting the European Coal and Steel Community and of the treaty instituting the European Defence Community,[1] to the extent that these have not been modified by the present Treaty.

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[1] *Supra*, docs. 12 and 16.

Article 109

The 3rd and 4th paragraphs of Article 95 and Article 96 of the Treaty instituting the European Coal and Steel Community, and Articles 125 and 126 of the Treaty instituting the European Defence Community are abrogated.

Article 110

The European Executive Council, either of the two Chambers, and each of the Member States may make proposals for the amendment of the present Statute.

Proposals for amendment made by one of the Chambers or by a Member State shall be transmitted to the European Executive Council which shall set in motion the procedure for which provision is made in Articles 111 to 115 of the present Statute.

Article 111.

Amendments to the provisions of the present Statute involving a modification of the powers and competence of the Community vis-à-vis the Member States, or a modification of the definition of human rights and fundamental freedoms guaranteed by the present Statute, shall be made by means of the following procedure:

The European Executive Council shall decide on a draft amendment to the Statute, with the unanimous concurrence of the Council of National Ministers.

The draft amendment shall be submitted for approval to the Parliament of the Community and to the Parliaments of the Member States.

The amendment shall be promulgated by the European Executive Council.

Article 112

Amendments to the provisions of the present Statute involving an alteration in the relations between the Institutions of the Community, or in the division of powers and competence among them, or amendments tending to affect the guarantees provided for the States in the composition or working procedure of these Institutions, shall be made in accordance with the following procedure:

The European Executive Council shall decide on a draft amendment of the Statute, which shall be submitted to the Council of National Ministers for unanimous approval.

The draft amendment shall be submitted for approval to the Parliament of the Community.

The amendment shall be promulgated by the European Executive Council.

Article 113

Amendments to the provisions of the present Statute other than those referred to in Articles 111 and 112 shall be made in accordance with the following procedure:

The European Executive Council shall decide on a draft amendment to the Statute.

The draft amendment shall be submitted for approval to the Parliament of the Community.

The amendment shall be promulgated by the European Executive Council.

Article 114

The Court shall adjudicate in any dispute concerning the procedure to be followed on a proposal for amendment, if requested to do so by an institution of the Community or a Member State.

Article 115

Amendments to the provisions of the Treaty instituting the European Defence Community, which might affect mutual aid agreements between the Member States of the European Defence Community and the United Kingdom, on the one hand, and the Member States of the European Defence Community and States parties to the North Atlantic Treaty, on the other hand, shall not become effective until agreement has been reached with the interested States.

Article 116

1. Accession to the Community shall be open to the Member States of the Council of Europe and to any other European State which guarantees the protection of human rights and fundamental freedoms mentioned in Article 3.
2. Any State desirous of acceding to the present Statute shall address its request to the European Executive Council. The latter shall inform the Council of National Ministers and the Parliament of the Community accordingly.
3. Accession shall form the subject of an instrument of accession which shall form a Protocol to the present Statute. This instrument, which shall contain the necessary amendments to the Statute, shall be drawn up by the European Executive Council with the concurrence of the Council of National Ministers. It shall be submitted to the Parliament of the Community for approval.
4. The instrument of accession shall come into force as soon as the European Executive Council has promulgated it and the State concerned has deposited its instrument of ratification with the European Executive Council.
5. The provisions of Article 98 of the treaty instituting the European Coal and Steel Community and of Article 129 of the treaty instituting the European Defence Community are abrogated.

Article 117

The present Treaty, drawn up in a single original copy, shall be provisionally deposited in the archives of . . . which shall transmit a certified copy thereof to the governments of each of the other signatory States.

The present Treaty shall be ratified. The instruments of ratification shall be deposited with . . . , which shall notify the Governments of the other Member States accordingly.

The present Treaty shall come into force on the day when the instrument of ratification shall be deposited by the penultimate State to fulfil this formality.

Within one year after the present Treaty shall have come into force, . . . shall deposit the present Treaty, together with the instruments of ratification, in the archives of the European Executive Council.

When the Council of National Ministers has taken up office, it shall arrange for the preparation of authoritative texts of the present Treaty in the languages other than that of the original copy.

Should there be any divergence, the text of the original copy shall prevail.

In witness whereof the undersigned Plenipotentiaries have placed their signatures and seals at the end of the present Treaty.

. . . .

APPENDIX I

Texts relating to Article 102 of the Draft Treaty

I.—TEXT OF ARTICLE 102 PROPOSED BY THE CONSTITUTIONAL COMMITTEE.

(Article 101 of the Draft presented to the Assembly by the Committee)

1. The Saar and its people shall be an integral part of the European Community. The people of the Saar shall share the rights and duties of the Community in the same way as the peoples of Member States.

2. Until such time as the final status of the Saar shall have been established, and without prejudice to any subsequent decision taken to this effect, the people of the Saar shall be represented in the European Community in the following manner:

i) The people of the Saar shall elect . . . representatives to the Peoples' Chamber and three representatives to the Senate.
In both Chambers, representatives of the people of the Saar shall have the same rights and duties as the other members.

ii) Representatives of the people of the Saar in both Chambers of Parliament shall be elected in accordance with Article 13, paragraph 1, of the present Treaty. The first election shall take place by universal, equal and direct suffrage and by secret ballot, according to the proportional representation system and the methods adopted by common agreement, before ratification of the present Treaty, between the Saar, the Federal Republic of Germany and the French Republic.

II.—Amendments to This Article Tabled During the March Session of the ad hoc Assembly

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AMENDMENT NO 98
TO THE REPORT OF THE CONSTITUTIONAL COMMITTEE

presented by MM. Muller and Singer
on 7 March 1953

Article 101

Paragraph 2 to be reworded as follows:

2. Until such time as the final status of the Saar shall have been established, and without prejudice to any subsequent decision taken to this effect, the people of the Saar shall be represented in the European Community in the following manner:

i) The Saar shall be represented in Parliament by 12 deputies and 4 senators.
In both Chambers, representatives of the people of the Saar shall have the same rights and duties as the other members.

ii) The Statute of the European Community shall become effective in the Saar as soon as it has been approved by the Saar Parliament.

AMENDMENT NO 105
TO THE REPORT OF THE CONSTITUTIONAL COMMITTEE

presented by M. Maurice Faure
on 7 March 1953

Article 101

Paragraph 2 to be replaced by the following paragraphs:

2. The people and territory of the Saar shall have the same claim to representation in the institutions of the Community as the people and territories of the other Members.

3. The conditions governing the representation of the Saar shall be laid down as soon as the status of the Saar has been determined and confirmed by international agreement.

32. PROTOCOL ON LINKS WITH THE COUNCIL OF EUROPE, MARCH 10, 1953 [1]

The Members of the European Community,

[*The Members of the Council of Europe,*]

Believing that it is necessary to establish as many and as close links as possible between the Council of Europe and the European Community, so that the Council of Europe may constitute the general political framework of Europe,

Now hereby agree as follows:

Article 1

The Consultative Assembly of the Council of Europe shall consist of the members of the Senate of the Community and of a corresponding number of representatives of the other Members of the Council of Europe, determined on the basis of the qualified distribution at present in force.

The provisions of Article 25 (*c*) of the Statute of the Council of Europe, concerning substitutes, shall not be affected by the present Article.

Article 2

The European Executive Council shall be represented at the meetings of the Committee of Ministers of the Council of Europe by one or more of its members.

Article 3

The European Executive Council shall transmit a report on the activities of the Community at least once a year to the Consultative Assembly and to the Committee of Ministers of the Council of Europe.

The Members of the European Executive Council may attend all meetings of the Consultative Assembly at which such reports are discussed, and shall be heard if they so request.

Article 4

1. The Council of Europe shall exercise vis-à-vis the Community the competences conferred on it by Article 15 of its Statute.
2. The European Executive Council shall inform the Council of Europe of measures proposed by the Community, which are likely to affect the interests of other Members of the Council of Europe.

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[1] *Draft Treaty Embodying the Statute of the European Community: Information and Official Documents of the Constitutional Committee, October 1952–April 1953* (Paris, 1953), pp. 137–139. The text of the protocol as printed here in bold type is the one intended to be appended to the Statute of the European Community. This same text, with appropriate substitutions, was also to be appended to Statute of the Council of Europe (*supra*, doc. 9). These substitutions as printed here are indicated in bracketed italics.

3. The European Executive Council may consult the Council of Europe before taking the measures referred to in the previous paragraph.
4. The European Executive Council shall inform the Council of Europe of the effect which it has given to any Recommendations received from the Committee of Ministers of the Council of Europe, in accordance with the provisions of Article 15 (*b*) of the Statute of the Council of Europe.

Article 5

The Committee of Ministers and the Consultative Assembly shall place on their respective agenda any requests for opinions addressed to them by the European Executive Council and any proposals the latter may make for the preparation of treaties or parallel legislation on questions of common interest to the Community and other Members of the Council of Europe.

Article 6

The Community and the Council of Europe shall consult together as regards the possibility of installing the seat of their respective institutions in the same place.

Article 7

Other forms of collaboration between the Community and the Council of Europe shall be laid down in agreements, which may provide *inter alia:*

(1) that certain administrative services be common to the Community and the Council of Europe, to an extent still to be determined;
(2) that information and other data be exchanged on a basis of reciprocity.

Article 8

The present protocol shall come into force immediately upon the institution of the Community, and as soon as the Secretary-General of the Council of Europe shall have notified the European Executive Council that the protocol on links with the Community, appended to the Statute of the Council of Europe, has come into force.

[*Article 8.— The present protocol constitutes an amendment to the Statute of the Council of Europe. It will be ratified and will come into force as soon as . . . Member States shall have deposited their instruments of ratification with the Secretary-General of the Council of Europe, and as soon as the European Executive Council shall have notified the Secretary-General that the Treaty instituting the European Political Community has come into force.*]

[PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE COMMUNITY.[1]]

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[1] *Draft Treaty Embodying the Statute of the European Community: Information and Official Documents of the Constitutional Committee, October 1952–April 1953* (Paris, 1953), pp. 129–133.

The Balkan Pact

33. TREATY OF FRIENDSHIP AND COLLABORATION BETWEEN THE TURKISH REPUBLIC, THE KINGDOM OF GREECE, AND THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA, FEBRUARY 28, 1953[1]

The Contracting Parties,

Reaffirming their faith in the principles set forth in the Charter of the United Nations;

Being resolved to live at peace with all nations and to contribute to the maintenance of international peace;

Desiring to strengthen the friendly relations existing between them;

Being determined to defend the liberty and independence of their peoples as well as their territorial integrity from any compulsion from without;

Being resolved to unite their efforts to render more effective the organization of their defense against any foreign aggression, and to consult one another and collaborate on every matter of common interest, particularly on matters concerning their defense;

Being convinced that the common interests of their peoples and of all peaceful nations require appropriate measures to safeguard peace and security in this part of the world, pursuant to Article 51 of the United Nations Charter,

Have decided to conclude the present Treaty, and their Heads of State have appointed as their respective Plenipotentiaries:

. . . .

who, having presented their full powers, found to be in good and due form, have agreed upon the following provisions:

Article I

In order to ensure their permanent collaboration, the Contracting Parties will consult on all problems of common interest.

The Ministers of Foreign Affairs of the Contracting Parties, shall meet regularly in conference once a year, and more often if it is considered necessary, in order to study the international political situation and to take the necessary decision, in conformity with the purposes of the present Treaty.

Article II

The Contracting Parties intend to continue their common efforts for the safeguarding of peace and security in their area and to pursue in common the study of the problems of their security, including common measures of defense the need for which might arise in the event of unprovoked aggression against them.

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[1] From Ankara, despatch 542, Mar. 3, 1953, file no. 668.811/3–353/enc. 1. Instruments of ratification deposited by Yugoslavia Apr. 6, 1953; by Greece, May 21, 1953; and by Turkey May 29, 1953; entered into force May 29, 1953.

Article III

The General Staffs of the Contracting Parties shall continue their collaboration in order to submit to their Governments recommendations concerning questions of defense that are formulated by mutual agreement, with a view to the making of co-ordinated decisions.

Article IV

The Contracting Parties will carry on their collaboration in the economic, cultural, and technical fields; in cases where it is considered advisable, appropriate agreements shall be concluded and the necessary agencies shall be established to resolve economic, technical, and cultural problems.

Article V

The Contracting Parties undertake to settle any dispute between them by such peaceful means as are specified in the Charter of the United Nations, and in a spirit of understanding and friendship; each Contracting Party also undertakes to refrain from any interference in the domestic affairs of the other parties.

Article VI

The Contracting Parties will refrain from concluding an alliance or from participating in an action directed against any one of them or of such nature as to prejudice its interests.

Article VII

The Contracting Parties declare, in so far as they are respectively concerned, that none of the international commitments now in force between them and one or more other States is in contradiction with the provisions of the present Treaty; furthermore, they assume the obligation not to sign in the future any international commitment that might be in conflict with the present Treaty.

Article VIII

This Treaty does not affect and cannot be interpreted as affecting in any way the rights and obligations of Turkey and Greece under the North Atlantic Treaty of April 4, 1949.[1]

Article IX

After the entry into force of the present Treaty, any other State whose collaboration is considered by all the Contracting Parties to be useful for the accomplishment of the purposes of this Treaty may adhere to it under the same conditions and with the same rights as the three Signatory States.

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[1] *Supra*, pp. 812–815 and 853–854.

An adhering State will become a party to the Treaty by depositing an instrument of accession.

Article X

The present Treaty, the French text of which shall be authentic, shall be ratified by each of the Contracting Parties, and the instruments of ratification shall be deposited with the Secretary of State of the Federal People's Republic of Yugoslavia in Belgrade; it shall enter into force on the date of deposit of the last instrument of ratification.

At the end of five years after the entry into force of the present Treaty, a Contracting Party may cease to be a party to this Treaty by a declaration addressed, one year in advance, to the Governments of the other Contracting Parties.

IN WITNESS WHEREOF, the said Plenipotentiaries have signed this Treaty.

Done at Ankara, this 28th day of February, one thousand nine hundred and fifty-three, in three originals, one of which has been delivered to each of the Contracting Parties.

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34. TREATY OF ALLIANCE, POLITICAL COOPERATION, AND MUTUAL ASSISTANCE BETWEEN THE TURKISH REPUBLIC, THE KINGDOM OF GREECE, AND THE FEDERAL PEOPLE'S REPUBLIC OF YUGOSLAVIA (BALKAN PACT), AUGUST 9, 1954 [1]

The Contracting Parties,

Reaffirming their faith in the principles set forth in the Charter of the United Nations and their desire to contribute, by co-ordinating their efforts, to the safeguarding of peace, the strengthening of security and the development of international cooperation;

Resolved to ensure in the most effective manner the territorial integrity as well as the political independence of their countries in accordance with the principles and provisions of the United Nations Charter;

Animated by the desire to widen and reinforce the bases of friendship and cooperation established in the Treaty of Friendship and Cooperation between their countries, signed at Ankara on February 28, 1953,[2] which proved to be an extremely effective instrument;

Having in view that the said Treaty has always been considered an initial step toward an alliance;

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[1] From Belgrade, despatch 88, Aug. 12, 1954, file no. 760.5/8–1254/enc. 1. Instruments of ratification deposited by Yugoslavia, Feb. 25, 1955; by Greece. Apr. 30, 1955; and by Turkey, May 21, 1955; entered into force May 21, 1955.

[2] *Supra.*

Considering that the conclusion of such an alliance is necessary;

Convinced, furthermore, that the institution of a system of collective security among them through a treaty of alliance would not only constitute a decisive factor for their own security and independence, but would also benefit all the other countries adhering to the cause of a just and equitable peace, especially those situated in their area;

Have decided to conclude the present Treaty and, for this purpose, have appointed as their respective Plenipotentiaries:

. . . .

who, having exhibited their full powers, found to be in good and due form, have agreed on the following provisions:

Article I

The Contracting Parties undertake, in accordance with the Charter of the United Nations, to settle by peaceful means any international dispute in which they may be involved, and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

Article II

The Contracting Parties agree that any armed aggression against one or more of them in any part of their territories shall be considered an aggression against all the Contracting Parties, who, consequently, in the exercise of the right of individual or collective self-defense recognized in Article 51 of the Charter of the United Nations, shall jointly and severally go to the assistance of the Party or Parties attacked by taking immediately and by common accord any measures, including the use of armed force, which they deem necessary for effective defense.

The Contracting Parties undertake, without prejudice to Article VII of the present Treaty, not to conclude peace or any other arrangement with the aggressor in the absence of a prior mutual agreement between the Parties.

Article III

To ensure in a continuous and effective manner the attainment of the objectives of the present Treaty, the Contracting Parties undertake to assist each other to maintain and strengthen their defensive capacity.

Article IV

With a view to ensuring the effective application of the present Treaty, it is agreed as follows:

1. There is hereby established a Permanent Council to be composed of the Ministers of Foreign Affairs and any other members of the Governments of the Contracting Parties whose presence might be required by the needs of the situation and the nature of the subjects to be treated.

The Permanent Council shall meet regularly twice a year. It may hold additional meetings whenever the Governments of all the Contracting Parties deem this necessary.

When the Permanent Council is not in session, it shall perform its functions through the Permanent Secretariat of the Treaty of Ankara according to a procedure to be determined.

The Conference of Ministers of Foreign Affairs provided for in Article I of the Treaty of Ankara shall be replaced by the Permanent Council.

Decisions of the Permanent Council on substantive matters shall be taken by unanimous agreement.

2. The General Staffs of the Contracting Parties shall continue their common task begun in application of Articles II and III of the Treaty of Ankara, with due regard to the provisions of the present Treaty.

Article V

As soon as the situation envisaged in Article II of the present Treaty occurs, the Contracting Parties will consult immediately and the Permanent Council shall meet at once in order to determine the measures which should be taken in addition to those already adopted pursuant to the aforesaid Article II, referred to above and which it would be necessary to take jointly in order to meet the situation.

Article VI

In the event of serious deterioration of the international situation, and more particularly in the areas where such deterioration might have a negative effect, whether direct or indirect, on the security of their area, the Contracting Parties will consult each other with a view to examining the situation and to determining their attitude.

The Contracting Parties, recognizing that an armed aggression against a country other than one of them may, by spreading, threaten directly or indirectly the security and the integrity of one or more of them, agree as follows:

In the event of an armed aggression against a country toward which one or more Contracting Parties has or have, at the time of signature of the present Treaty, obligations of mutual assistance, the Contracting Parties will consult each other regarding the measures which should be taken in accordance with the purposes of the United Nations and in order to meet the situation thus created in their area.

It is understood that the consultations referred to in this article might include an emergency meeting of the Permanent Council.

Article VII

The Contracting Parties will immediately inform the United Nations Security Council of any armed aggression against them, and of the measures of self-defense which have been taken; they will discontinue the said measures when the Security Council has effectively applied those mentioned in Article 51 of the Charter of the United Nations.

Likewise, the Governments of the Contracting Parties will immediately make the public statement provided for in United Nations General Assembly Resolution No. 378 (V) A of November 17, 1950[1] relating to the duties of States in the event of an outbreak of hostilities, and they will act in accordance with the said Resolution.

Article VIII

The Contracting Parties reaffirm their decision not to participate in any coalition directed against any one of them and not to make any commitment incompatible with the provisions of the present Treaty.

Article IX

The provisions of the present Treaty do not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations.

Article X

The provisions of the present Treaty do not affect and shall not be interpreted as affecting in any way the rights and obligations of Greece and Turkey resulting from the North Atlantic Treaty of April 4, 1949.[2]

Article XI

The Treaty of Friendship and Cooperation concluded between the Contracting Parties at Ankara on February 28, 1953 shall remain in force in so far as it is not modified by the provisions of the present Treaty.

The Contracting Parties agree to apply the provisions of Article XIII of the present Treaty in respect of the duration of the Treaty of Ankara.

Article XII

The provisions of Article IX of the Treaty of Friendship and Cooperation of February 28 shall apply to the present Treaty under the same conditions.

Article XIII

The present Treaty is concluded for a period of twenty years.

If none of the Contracting Parties denounces this Treaty one year before its expiration, it shall automatically be extended for one more year, and so on until it is denounced by one of the Contracting Parties.

Article XIV

The present Treaty shall be ratified by the Contracting Parties in accordance with their respective constitutional processes. It shall enter into force on the date of deposit of the last instrument of ratification.

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[1] U.N. General Assembly, *Official Records, Fifth Session, Supplement No. 20* (A/1775), pp. 12–13.

[2] *Supra*, pp. 812–815 and 853–854.

The instruments of ratification shall be deposited with the Ministry of Foreign Affairs of the Kingdom of Greece.

The Treaty shall be registered with the United Nations.

It has been drawn up in the French language in three identical copies, one of which is to be delivered to each of the Contracting Parties.

In witness whereof, the Plenipotentiaries of the Contracting Parties have affixed their signatures hereto.

Done at Bled, August 9, 1954.

The Warsaw Security Pact

35. TREATY OF FRIENDSHIP, COOPERATION AND MUTUAL ASSISTANCE BETWEEN THE PEOPLE'S REPUBLIC OF ALBANIA, THE PEOPLE'S REPUBLIC OF BULGARIA, THE HUNGARIAN PEOPLE'S REPUBLIC, THE GERMAN DEMOCRATIC REPUBLIC, THE POLISH PEOPLE'S REPUBLIC, THE RUMANIAN PEOPLE'S REPUBLIC, THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE CZECHOSLOVAK REPUBLIC, MAY 14, 1955[1]

The Contracting Parties,

reaffirming their desire for the establishment of a system of European collective security based on the participation of all European states irrespective of their social and political systems, which would make it possible to unite their efforts in safeguarding the peace of Europe;

mindful, at the same time, of the situation created in Europe by the ratification of the Paris agreements, which envisage the formation of a new military alignment in the shape of "Western European Union," with the participation of a remilitarized Western Germany and the integration of the latter in the North-Atlantic bloc, which increased the danger of another war and constitutes a threat to the national security of the peaceable states;

being persuaded that in these circumstances the peaceable European states must take the necessary measures to safeguard their security and in the interests of preserving peace in Europe;

guided by the objects and principles of the Charter of the United Nations Organization;

being desirous of further promoting and developing friendship, cooperation and mutual assistance in accordance with the principles of respect for the independence and sovereignty of states and of non-interference in their internal affairs,

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[1] *New Times*, No. 21, May 21, 1955, pp. 65–67 (the Warsaw Pact has been registered with the United Nations Secretariat, but an official English-language text of the pact has not yet been printed in the U.N. Treaty Series). Instruments of ratification deposited by Poland, May 19, 1955; by the German Democratic Republic, May 24, 1955; by Czechoslovakia, May 27, 1955; by Bulgaria, May 31, 1955; by the U. S. S. R., June 1, 1955; by Hungary, June 2, 1955; by Rumania, June 3, 1955; and by Albania, June 6, 1955; entered into force June 6, 1955.

have decided to conclude the present Treaty of Friendship, Cooperation and Mutual Assistance and have for that purpose appointed as their plenipotentiaries:

. . . .

who, having presented their full powers, found in good and due form, have agreed as follows:

Article 1

The Contracting Parties undertake, in accordance with the Charter of the United Nations Organization, to refrain in their international relations from the threat or use of force, and to settle their international disputes peacefully and in such manner as will not jeopardize international peace and security.

Article 2

The Contracting Parties declare their readiness to participate in a spirit of sincere cooperation in all international actions designed to safeguard international peace and security, and will fully devote their energies to the attainment of this end.

The Contracting Parties will furthermore strive for the adoption, in agreement with other states which may desire to cooperate in this, of effective measures for universal reduction of armaments and prohibition of atomic, hydrogen and other weapons of mass destruction.

Article 3

The Contracting Parties shall consult with one another on all important international issues affecting their common interests, guided by the desire to strengthen international peace and security.

They shall immediately consult with one another whenever, in the opinion of any one of them, a threat of armed attack on one or more of the Parties to the Treaty has arisen, in order to ensure joint defence and the maintenance of peace and security.

Article 4

In the event of armed attack in Europe on one or more of the Parties to the Treaty by any state or group of states, each of the Parties to the Treaty, in the exercise of its right to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations Organization, shall immediately, either individually or in agreement with other Parties to the Treaty, come to the assistance of the state or states attacked with all such means as it deems necessary, including armed force. The Parties to the Treaty shall immediately consult concerning the necessary measures to be taken by them jointly in order to restore and maintain international peace and security.

Measures taken on the basis of this Article shall be reported to the

Security Council in conformity with the provisions of the Charter of the United Nations Organization. These measures shall be discontinued immediately the Security Council adopts the necessary measures to restore and maintain international peace and security.

Article 5

The Contracting Parties have agreed to establish a Joint Command of the armed forces that by agreement among the Parties shall be assigned to the Command, which shall function on the basis of jointly established principles. They shall likewise adopt other agreed measures necessary to strengthen their defensive power, in order to protect the peaceful labours of their peoples, guarantee the inviolability of their frontiers and territories, and provide defence against possible aggression.

Article 6

For the purpose of the consultations among the Parties envisaged in the present Treaty, and also for the purpose of examining questions which may arise in the operation of the Treaty, a Political Consultative Committee shall be set up, in which each of the Parties to the Treaty shall be represented by a member of its Government or by another specifically appointed representative.

The Committee may set up such auxiliary bodies as may prove necessary.

Article 7

The Contracting Parties undertake not to participate in any coalitions or alliances and not to conclude any agreements whose objects conflict with the objects of the present Treaty.

The Contracting Parties declare that their commitments under existing international treaties do not conflict with the provisions of the present Treaty.

Article 8

The Contracting Parties declare that they will act in a spirit of friendship and cooperation with a view to further developing and fostering economic and cultural intercourse with one another, each adhering to the principle of respect for the independence and sovereignty of the others and non-interference in their internal affairs.

Article 9

The present Treaty is open to the accession of other states, irrespective of their social and political systems, which express their readiness by participation in the present Treaty to assist in uniting the efforts of the peaceable states in safeguarding the peace and security of the peoples. Such accession shall enter into force with the agreement of the Parties to the Treaty after the declaration of accession has been deposited with the Government of the Polish People's Republic.

Article 10

The present Treaty is subject to ratification, and the instruments of ratification shall be deposited with the Government of the Polish People's Republic.

The Treaty shall enter into force on the day the last instrument of ratification has been deposited. The Government of the Polish People's Republic shall notify the other Parties to the Treaty as each instrument of ratification is deposited.

Article 11

The present Treaty shall remain in force for twenty years. For such Contracting Parties as do not at least one year before the expiration of this period present to the Government of the Polish People's Republic a statement of denunciation of the Treaty, it shall remain in force for the next ten years.

Should a system of collective security be established in Europe, and a General European Treaty of Collective Security concluded for this purpose, for which the Contracting Parties will unswervingly strive, the present Treaty shall cease to be operative from the day the General European Treaty enters into force.

Done in Warsaw on May 14, 1955, in one copy each in the Russian, Polish, Czech and German languages, all texts being equally authentic. Certified copies of the present Treaty shall be sent by the Government of the Polish People's Republic to all the Parties to the Treaty.

In witness whereof the plenipotentiaries have signed the present Treaty and affixed their seals.

Part VII

MIDDLE EASTERN REGIONAL ARRANGEMENTS

MEMBERSHIP OF MIDDLE EASTERN REGIONAL ARRANGEMENTS

(Limited to active Arrangements documented in this Part)

COUNTRIES	League of Arab States	Arab Defense Pact	Baghdad Pact
Egypt	●	●	
Iran			●
Iraq	●	●	●
Lebanon	●	●	
Libya	●		
Pakistan			●
Saudi Arabia	●	●	
Syria	●	●	
Transjordan	●	●	
Turkey			●
Yemen	●	●	
United Kingdom			●
United States			○

● Membership ○ Informal Association

1. PACT OF THE LEAGUE OF ARAB STATES, MARCH 22, 1945 [1]

His Excellency the President of the Syrian Republic,
His Royal Highness the Emir of Transjordan,
His Majesty the King of Iraq,
His Majesty the King of Saudi-Arabia,
His Excellency the President of the Lebanese Republic,
His Majesty the King of Egypt,
His Majesty the King of Yemen,

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[1] U.N. doc. A/C. 6/L.111 (also in U.N. Treaty Series, vol. LXX, pp. 237–263). Dates of deposit of instruments of ratification (and of entry into force of the Pact for each Contracting Party): Transjordan, Apr. 10, 1945 (May 10, 1945); Egypt, Apr. 12, 1945 (May 10, 1945); Saudi Arabia, Apr. 16, 1945 (May 10, 1945); Iraq, Apr. 25, 1945 (May 10, 1945); Lebanon, May 16, 1945 (June 1, 1945); Syria, May 19, 1945 (June 4, 1945); and Yemen, Feb. 9, 1946 (Feb. 24, 1946).

With a view to strengthen[ing] the close relations and numerous ties which bind the Arab States,

And out of concern for the cementing and reinforcing of these bonds on the basis of respect for the independence and sovereignty of these States,

And in order to direct their efforts toward[s] the goal of the welfare of all the Arab States, their common weal, the guarantee of their future and the realization of their aspirations,

And in response to Arab public opinion in all the Arab countries,

Have agreed to conclude a pact to this effect and have delegated as their plenipotentiaries those whose names are given below:

. . . .

Who, after the exchange of the credentials granting them full authority, which were found valid and in proper form, have agreed upon the following:

Article 1. The League of Arab States shall be composed of the independent Arab States that have signed this Pact.

Every independent Arab State shall have the right to adhere to the League. Should it desire to adhere, it shall present an application to this effect which shall be filed with the permanent General Secretariat and submitted to the Council at its first meeting following the presentation of the application.[1]

Article 2. The purpose of the League is to draw closer the relations between member States and co-ordinate their political activities with the aim of realizing a close collaboration between them, to safeguard their independence and sovereignty, and to consider in a general way the affairs and interests of the Arab countries.

It also has among its purposes a close co-operation of the member States with due regard to the structure of each of these States and the conditions prevailing therein, in the following matters:

(*a*) Economic and financial matters, including trade, customs, currency, agriculture and industry;

(*b*) Communications, including railways, roads, aviation, navigation, and posts and telegraphs;

(*c*) Cultural matters;

(*d*) Matters connected with nationality, passports, visas, execution of judgments and extradition;

(*e*) Social welfare matters;

(*f*) Health matters.

Article 3. The League shall have a Council composed of the representatives of the member States. Each State shall have one vote, regardless of the number of its representatives.

The Council shall be entrusted with the function of realizing the purpose of the League and of supervising the execution of the agreements concluded between the member States on matters referred to in the preceding article or on other matters.

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[1] Libya adhered to the pact, Mar. 28, 1953.

It shall also have the function of determining the means whereby the League will collaborate with the international organizations which may be created in the future to guarantee peace and security and organize economic and social relations.

Article 4. A special Committee shall be formed for each of the categories enumerated in article 2, on which the member States shall be represented. These Committees shall be entrusted with establishing the basis and scope of co-operation in the form of draft agreements which shall be submitted to the Council for its consideration preparatory to their being submitted to the States referred to.

Delegates representing the other Arab countries may participate in these Committees as members. The Council shall determine the circumstances in which the participation of these representatives shall be allowed as well as the basis of the representation.

Article 5. The recourse to force for the settlement of disputes between two or more member States shall not be allowed. Should there arise among them a dispute that does not involve the independence of a State, its sovereignty or its territorial integrity, and should the two contending parties apply to the Council for the settlement of this dispute, the decision of the Council shall then be effective and obligatory.

In this case, the States among whom the dispute has arisen shall not participate in the deliberations and decisions of the Council.

The Council shall mediate in a dispute which may lead to war between two member States or between a member State and another State in order to conciliate them.

The decisions relating to arbitration and mediation shall be taken by a majority vote.

Article 6. In case of aggression or threat of aggression by a State against a member State, the State attacked or threatened with attack may request an immediate meeting of the Council.

The Council shall determine the necessary measures to repel this aggression. Its decision shall be taken unanimously. If the aggression is committed by a member State the vote of that State will not be counted in determining unanimity.

If the aggression is committed in such a way as to render the Government of the State attacked unable to communicate with the Council, the representative of that State in the Council may request the Council to convene for the purpose set forth in the preceding paragraph. If the representative is unable to communicate with the Council, it shall be the right of any member State to request a meeting of the Council.

Article 7. The decisions of the Council taken by a unanimous vote shall be binding on all the member States of the League; those that are reached by a majority vote shall bind only those that accept them.

In both cases the decisions of the Council shall be executed in each State in accordance with the fundamental structure of that State.

Article 8. Every member State of the League shall respect the form of government obtaining in the other States of the League, and shall recognize the form of government obtaining as one of the rights of those States, and shall pledge itself not to take any action tending to change that form.

Article 9. The States of the Arab League that are desirous of establishing among themselves closer collaboration and stronger bonds than those provided for in the present Pact, may conclude among themselves whatever agreements they wish for this purpose.

The treaties and agreements already concluded or that may be concluded in the future between a member State and any other State, shall not be binding on the other members.

Article 10. The permanent seat of the League of Arab States shall be Cairo. The Council of the League may meet at any other place it designates.

Article 11. The Council of the League shall meet in ordinary session twice a year, during the months of March and October. It shall meet in extraordinary session at the request of two member States whenever the need arises.

Article 12. The League shall have a permanent General Secretariat, composed of a Secretary-General, Assistant Secretaries and an adequate number of officials.

The Secretary-General shall be appointed by the Council upon the vote of two-thirds of the States of the League. The Assistant Secretaries and the principal officials shall be appointed by the Secretary-General with the approval of the Council.

The Council shall establish an internal organization for the General Secretariat as well as the conditions of service of the officials.

The Secretary-General shall have the rank of Ambassador; and the Assistant Secretaries the rank of Ministers Plenipotentiary.

The first Secretary-General of the League is designated in an annex to the present Pact.

Article 13. The Secretary-General shall prepare the draft of the budget of the League and submit it for approval to the Council before the beginning of each fiscal year.

The Council shall determine the share of each of the States of the League in the expenses. It shall be allowed to revise the share if necessary.

Article 14. The members of the Council of the League, the members of its Committees and such of its officials as shall be designated in the internal organization, shall enjoy, in the exercise of their duties, diplomatic privileges and immunities.

The premises occupied by the institutions of the League shall be inviolable.

Article 15. The council shall meet the first time at the invitation of the Head of the Egyptian Government. Later meetings shall be convoked by the Secretary-General.

In each ordinary session the representatives of the States of the League shall assume the chairmanship of the Council in rotation.

Article 16. Except for the cases provided for in the present Pact, a majority shall suffice for decisions by the Council effective in the following matters:

(*a*) Matters concerning the officials.
(*b*) The approval of the budget of the League.
(*c*) The internal organization of the Council, the Committees and the General Secretariat.
(*d*) The termination of the sessions.

Article 17. The member States of the League shall file with the General Secretariat copies of all treaties and agreements which they have concluded or will conclude with any other State, whether a member of the League or otherwise.

Article 18. If one of the member States intends to withdraw from the League, the Council shall be informed of its intention one year before the withdrawal takes effect.

The Council of the League may consider any State that is not fulfilling the obligations resulting from this Pact as excluded from the League, by a decision taken by a unanimous vote of all the States except the State referred to.

Article 19. The present Pact may be amended with the approval of two-thirds of the members of the League in particular for the purpose of strengthening the ties between them, of creating an Arab Court of Justice, and of regulating the relations of the League with the international organizations that may be created in the future to guarantee security and peace.

No decision shall be taken as regards an amendment except in the session following that in which it is proposed.

Any State that does not approve an amendment may withdraw from the League when the amendment becomes effective, without being bound by the provisions of the preceding article.

Article 20. The present Pact and its annexes shall be ratified in accordance with the fundamental form of government in each of the contracting States.

The instruments of ratification shall be filed with the General Secretariat and the present Pact shall become binding on the States that ratify in fifteen days after the Secretary-General receives instruments of ratification from four States.

The present Pact has been drawn up in the Arabic language in Cairo and dated 8 Rabi al Thani 1364 (March 22, 1945),[1] in a single text which shall be deposited with the General Secretariat.

A certified copy shall be sent to each of the States of the League.

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[1] The Pact was signed on Mar. 22, 1945, by the Contracting Parties, with the exception of Yemen, which signed on May 5, 1945.

ANNEX ON PALESTINE

At the end of the last Great War, Palestine, together with the other Arab States, was separated from the Ottoman Empire. She became independent, not belonging to any other State.

The Treaty of Lausanne[1] proclaimed that her fate should be decided by the parties concerned in Palestine.

Even though Palestine was not able to control her own destiny, it was on the basis of the recognition of her independence that the Covenant of the League of Nations determined a system of government for her.[2]

Her existence and her independence among the nations can, therefore, no more be questioned *de jure* than the independence of any of the other Arab States.

Even though the outward signs of this independence have remained veiled as a result of *force majeure*, it is not fitting that this should be an obstacle to the participation of Palestine in the work of the League.

Therefore, the States signatory to the Pact of the Arab League consider that in view of Palestine's special circumstances, the Council of the League should designate an Arab delegate from Palestine to participate in its work until this country enjoys actual independence.

ANNEX ON CO-OPERATION WITH ARAB COUNTRIES NOT MEMBERS OF THE COUNCIL OF THE LEAGUE

Whereas the member States of the League will have to deal either in the Council or in the Committees with questions affecting the interests of the entire Arab world,

And whereas the Council cannot fail to take into account the aspirations of the Arab countries not members of the Council and to work toward their realization, the States signatory to the Pact of the Arab League strongly urge that the Council of the League should cooperate with them as far as possible in having them participate in the Committees referred to in the Pact, and in other matters should not spare any effort to learn their needs and understand their aspirations and should moreover work for their common weal and the guarantee of their future by whatever political means available.

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[1] Treaty of July 24, 1923; League of Nations Treaty Series, vol. XXVIII, pp. 11–113.

[2] See art. 22 of the Covenant and accompanying notes printed in *Foreign Relations of the United States: The Paris Peace Conference, 1919*, vol. XIII, pp. 93–104.

ANNEX ON THE APPOINTMENT OF SECRETARY-GENERAL OF THE LEAGUE

The States signatory to the present Pact have agreed to appoint Abd Al Rahman Azzam Bey Secretary-General of the League of Arab States.

His appointment shall be for a term of two years. The Council of the League shall later determine the future organization of the General Secretariat.

2. TREATY OF JOINT DEFENSE AND ECONOMIC COOPERATION BETWEEN THE STATES OF THE ARAB LEAGUE, JUNE 17, 1950[1]

The Governments of:

THE HASHIMITE KINGDOM OF JORDAN
THE SYRIAN REPUBLIC
THE KINGDOM OF IRAQ
THE KINGDOM OF SAUDI ARABIA
THE LEBANESE REPUBLIC
THE KINGDOM OF EGYPT
THE MOTAWAKILITE KINGDOM OF YEMEN

In view of the desire of the above-mentioned Governments to consolidate relations between the States of the Arab League; to maintain their independence and their mutual heritage; in accordance with the desire of their peoples, to cooperate for the realization of mutual defense and the maintenance of security and peace according to the principles of both the Arab League Pact and the United Nations Charter, together with the aims of the said Pacts; and to consolidate stability and security and provide means of welfare and development in the countries.

The following government delegates of . . . , having been duly accredited and fully authorized by their respective governments, pprove the following:

Article 1

The Contracting States, in an effort to maintain and stabilize peace and security, hereby confirm their desire to settle their international disputes by peaceful means, whether such disputes concern relations among themselves or with other Powers.

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[1] League of Arab States Treaty Series. *Agreements and Conventions Concluded Between Member States Within the Framework of the Arab League,* p. 10. Instruments of ratification deposited by Syria, Oct. 31, 1951; by Egypt, Nov. 22, 1951; by Jordan, Mar. 31, 1952; by Iraq, Aug. 7, 1952; by Saudi Arabia, Aug. 19, 1952; by Lebanon, Dec. 24, 1952; and by Yemen, Oct. 11, 1953; entered into force Aug. 2, 1952.

Article 2

The Contracting States consider any [act of] armed aggression made against any one or more of them or their armed forces, to be directed against them all. Therefore, in accordance with the right of self-defense, individually and collectively, they undertake to go without delay to the aid of the State or States against which such an act of aggression is made, and immediately to take, individually and collectively, all steps available, including the use of armed force, to repel the aggression and restore security and peace. In conformity with Article 6 of the Arab League Pact and Article 51 of the United Nations Charter, the Arab League Council and U. N. Security Council shall be notified of such act of aggression and the means and procedure taken to check it.

Article 3

At the invitation of any one of the signatories of this Treaty the Contracting States shall hold consultations whenever there are reasonable grounds for the belief that the territorial integrity, independence, or security of any one of the parties is threatened. In the event of the threat of war or the existence of an international emergency, the Contracting States shall immediately proceed to unify their plans and defensive measures, as the situation may demand.

Article 4

The Contracting States, desiring to implement fully the above obligations and effectively carry them out, shall cooperate in consolidating and coordinating their armed forces, and shall participate according to their resources and needs in preparing individual and collective means of defense to repulse the said armed aggression.

Article 5

A Permanent Military Commission composed of representatives of the General Staffs of the armies of the Contracting States shall be formed to draw up plans of joint defense and their implementation. The duties of the Permanent Military Commission which are set forth in an Annex attached to this Treaty, include the drafting of necessary reports on the method of cooperation and participation mentioned in Article 4. The Permanent Military Commission shall submit to the Joint Defense Council, provided hereunder in Article 6, reports dealing with questions within its province.

Article 6

A Joint Defense Council under the supervision of the Arab League Council shall be formed to deal with all matters concerning the implementation of the provisions of Articles 2, 3, 4, and 5 of this Treaty. It shall be assisted in the performance of its task by the Permanent Military Commission referred to in Article 5. The Joint Defense Council shall consist of the Foreign Ministers and the

Defense Ministers of the Contracting States or their representatives. Decisions taken by a two-thirds majority shall be binding on all the Contracting States.

Article 7

The Contracting States, in order to fulfill the aims of this Treaty, and to bring about security and prosperity in the Arab countries, and in an effort to raise the standard of living in them, undertake to cooperate in the development of their economies and the exploitation of their natural resources; to facilitate the exchange of their respective agricultural and industrial products; and generally to organize and coordinate their economic activities and to conclude the necessary inter-Arab agreements to realize such aims.

Article 8

An Economic Council consisting of the Ministers in charge of economic affairs, or their representatives if necessary, shall be formed by the Contracting States to submit recommendations for the realization of all such aims as are set forth in the previous article. The Council may, in the performance of its duties, seek the cooperation of the Committee for Financial and Economic Affairs referred to in Article 4 of the Arab League Pact.

Article 9

The Annex to this Treaty shall be considered an integral and indivisible part of it.

Article 10

The Contracting States undertake to conclude no international agreements which may be contradictory to the provisions of this Treaty, nor to act, in their international relations, in a way which may be contrary to the aims of this Treaty.

Article 11

No provision of this Treaty shall in any way affect, or is intended to affect, any of the rights or obligations devolving upon the Contracting States from the United Nations Charter or the responsibilities borne by the United Nations Security Council for the maintenance of international peace and security.

Article 12

After a lapse of 10 years from the date of the ratification of this Treaty, any one of the Contracting States may withdraw from it, providing 12 months' notice is previously given to the Secretariat-General of the Arab League. The Secretariat-General of the League shall inform the other Contracting States of such notice.

Article 13

This Treaty shall be ratified by each Contracting State according to the constitutional procedure of its own government. The Treaty shall come into force for the ratifying States 15 days after the receipt by the Secretariat-General of the instruments of ratification from at least four States. This Treaty is drafted in Arabic in Cairo on April 13, 1950. One signed copy shall be deposited with the Secretariat-General of the Arab League; equally authentic copies shall be transmitted to each of the Contracting States.

Military Annex

1. The Permanent Military Commission provided for in Article 5 of the Joint Defense and Economic Cooperation Treaty between the States of the Arab League, shall undertake the following:

(a) in cooperation with the Joint Defense Council, to prepare plans to deal with all anticipated dangers or armed aggression that may be launched against one or more of the Contracting States or their armed forces, such plans to be based on the principles determined by the Joint Defense Council;

(b) to submit proposals for the organization of the forces of the Contracting States, stipulating the minimum force for each in accordance with military exigencies and the potentialities of each State;

(c) to submit proposals for increasing the effectiveness of the forces of the Contracting States in so far as their equipment, organization, and training are concerned; so that they may keep pace with modern military methods and development; and for the unification and coordination of all such forces;

(d) to submit proposals for the exploitation of natural, agricultural, industrial, and other resources of all Contracting States in favor of the inter-Arab military effort and joint defense;

(e) to organize the exchange of training missions between the Contracting States for the preparation of plans, participation in military exercises and maneuvers and the study of their results, recommendations for the improvement of methods to ensure close cooperation in the field, and for the general improvement of the forces of all the Contracting States;

(f) to prepare the necessary data on the resources and military potentialities of each of the Contracting States and the part to be played by the forces of each in the joint military effort;

(g) to discuss the facilities and various contributions which each of the Contracting States, in conformity with the provisions of this Treaty, might be asked to provide, during a state of war, on behalf of the armies of such other Contracting States as might be operating on its territory.

2. The Permanent Military Commission may form temporary or permanent subcommittees from among its own members to deal with any of the matters falling within its jurisdiction. It may also seek the advice of any experts whose views on certain questions are deemed necessary.

3. The Permanent Military Commission shall submit detailed reports on the results of its activities and studies to the Joint Defense

Council provided for in Article 6 of this Treaty, as well as an annual report giving full particulars of its work and studies during the year.

4. The Permanent Military Commission shall establish its headquarters in Cairo but may hold meetings in any other place the Commission may specify. The Commission shall elect its Chairman for two years; he may be reelected. Candidates for the Chairmanship shall hold at least the rank of a high commanding officer. Each member of the Commission must have as his original nationality that of the Contracting State he represents.

5. In the event of war, the supreme command of the joint forces shall be entrusted to the Contracting State possessing the largest military force taking actual part in field operations, unless, by unanimous agreement, the Commander-in-Chief is selected otherwise. The Commander-in-Chief shall be assisted in directing military operations by a Joint Staff.

3. AGREEMENT FOR FRIENDLY COOPERATION BETWEEN THE DOMINION OF PAKISTAN AND THE REPUBLIC OF TURKEY, APRIL 2, 1954 (AND AMENDMENT OF AUGUST 19, 1954) [1]

PAKISTAN AND TURKEY

REAFFIRMING their faith in the Purposes and Principles of the Charter of the United Nations and their determination always to endeavour to apply and give effect to these Purposes and Principles,

DESIROUS of promoting the benefits of greater mutual cooperation deriving from the sincere friendship happily existing between them,

RECOGNISING the need for consultation and cooperation between them in every field for the purpose of promoting the well-being and security of their peoples,

BEING CONVINCED that such cooperation would be to the interest of all peace-loving nations and in particular also to the interest of nations in the region of the Contracting Parties, and would consequently serve to ensure peace and security which are both indivisible,

HAVE THEREFORE DECIDED to conclude this Agreement for friendly Cooperation and for this purpose, have appointed as their Plenipotentiaries:

. . . .

who, after presentation of their full powers, found in good and due form, have agreed as follows:

ARTICLE 1

The Contracting Parties undertake to refrain from intervening in any way in the internal affairs of each other and from participating in any alliance or activities directed against the other.

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[1] Government of Pakistan Treaty Series No. 4 (1954). Ratifications exchanged June 12, 1954.

ARTICLE 2

The Contracting Parties will consult on international matters of mutual interest and, taking into account international requirements and conditions, cooperate between them to the maximum extent.

ARTICLE 3

The Contracting Parties will develop the cooperation, already established between them in the cultural field under a separate Agreement, in the economic and technical fields also by concluding, if necessary, other agreements.

ARTICLE 4

The consultation and cooperation between the Contracting Parties in the field of defence shall cover the following points:

a. exchange of information for the purpose of deriving benefit jointly from technical experience and progress,
b. endeavours to meet, as far as possible, the requirements of the Parties in the production of arms and ammunition,
c. studies and determination of the ways and extent of cooperation which might be effected between them in accordance with Article 51 of the Charter of the United Nations, should an unprovoked attack occur against them from outside.

ARTICLE 5

Each Contracting Party declares that none of the international engagements now in force between it and any third State is in conflict with the provisions of this Agreement and that this Agreement shall not affect, nor can it be interpreted so as to affect, the aforesaid engagements, and undertakes not to enter into any international engagement in conflict with this Agreement.

ARTICLE 6

Any State, whose participation is considered by the Contracting Parties useful for achieving the purposes of the present Agreement, may accede to the present Agreement under the same conditions and with the same obligations as the Contracting Parties.

Any accession shall have legal effect, after the instrument of accession is duly deposited with the Government of Turkey from the date of an official notification by the Government of Turkey to the Government of Pakistan.

ARTICLE 7

This Agreement, of which the English text is authentic, shall be ratified by the Contracting Parties in accordance with their respective constitutional processes, and shall enter into force on the date of the exchange of the instruments of ratification in Ankara.

In case no formal notice of denunciation is given by one of the Contracting Parties to the other, one year before the termination of a period of five years from the date of its entry into force, the present Agreement shall automatically continue in force for a further period of five years, and the same procedure will apply for subsequent periods thereafter.

IN WITNESS WHEREOF, the above mentioned Plenipotentiaries have signed the present Agreement.

DONE in two copies at Karachi the second day of April one thousand nine hundred and fifty four.

. . . .

Exchange of Letters Between the Government of Pakistan and the Government of the Republic of Turkey Regarding the Amendment of Paragraph (B) of Article 4 of the Friendly Cooperation Agreement Between Pakistan and Turkey.

(1)

EMBASSY OF PAKISTAN,
ANKARA

No. III/5(8)54
August 19th, 1954.

YOUR EXCELLENCY,

As Your Excellency will recall that in the course of conversations which took place at Ankara during the official visit to Turkey of our Prime Minister, the Hon'ble Mr. Mohammed Ali, it was decided between the statesmen of our two countries to extend the scope of paragraph (b) of [Article [4] of [the] Friendly Cooperation Agreement between Turkey and Pakistan, signed at Karachi on April 2, 1954, so as to include within the meaning of cooperation envisaged by the said paragraph the case of "supply" of Arms and Ammunition as well as their production.

I have the honour to confirm to Your Excellency the agreement of my Government as to that decision and wish to add that, if the Government of the Republic of Turkey is willing to express similar agreement, my Government proposes that this letter and Your Excellency's reply informing me of your Government's confirmation should constitute an integral part of the Friendly Cooperation Agreement for the purpose of giving the above mentioned sense to the paragraph in question.

Please accept, Your Excellency, the assurances of my best consideration.

Sd. REYAZUL HASAN
Charge d'Affaires of Pakistan.

His Excellency
Prof. FUAD KÖPRÜLÜ,
Minister of Foreign Affairs,
Republic of Turkey, Ankara.

(2)

Turkiye Cumhuriyeti
Hariciye Vekaleti.

(Ministry of Foreign Affairs,
Republic of Turkey).

ANKARA, *August 19th, 1954.*

Mr. CHARGE D'AFFAIRES,

I have the honour to acknowledge the receipt of your letter dated August 19th, 1954, No. III/5(s)54 which reads as follows:

"As Your Excellency will recall that in the course of conversations which took place at Ankara during the official visit to Turkey of our Prime Minister, the Honourable Mr. Mohammed Ali, it was decided between the statesmen of our two countries to extend the scope of paragraph (b) of Article 4 of the Friendly Cooperation Agreement between Turkey and Pakistan, signed at Karachi on April 2, 1954, so as to include within the meaning of cooperation envisaged by the said paragraph the case of 'supply' of Arms and Ammunition as well as their production.

"I have the honour to confirm to Your Excellency the agreement of my Government as to that decision and wish to add that, if the Government of the Republic of Turkey is willing to express similar agreement, my Government proposes that this letter and Your Excellency's reply informing me of your Government's confirmation should constitute an integral part of the Friendly Cooperation Agreement for the purpose of giving the abovementioned sense to the paragraph in question.

"Please accept, Your Excellency, the assurances of my best consideration."

I have the honour to confirm that the Turkish Government concurs with the above-mentioned letter.

Please accept, Mr. Charge d'Affaires, the assurances of my best consideration.

Sd. FUAD KÖPRÜLÜ
Minister of Foreign Affairs.

4. PACT OF MUTUAL COOPERATION BETWEEN THE KINGDOM OF IRAQ, THE REPUBLIC OF TURKEY, THE UNITED KINGDOM, THE DOMINION OF PAKISTAN, AND THE KINGDOM OF IRAN (BAGHDAD PACT), FEBRUARY 24, 1955 [1]

Whereas the friendly and brotherly relations existing between Iraq and Turkey are in constant progress, and in order to complement the contents of the Treaty of Friendship and Good Neighbourhood concluded between His Majesty the King of Iraq and his Excellency the President of the Turkish Republic signed in Ankara on March 29, 1946,[2] which recognised the fact that peace and security between the two countries is an integral part of the peace and security of all the nations of the world and in particular the nations of the Middle East, and that it is the basis for their foreign policies;

Whereas article 11 of the Treaty of Joint Defence and Economic Co-operation between the Arab League States [3] provides that no provision of that treaty shall in any way affect, or is designed to affect, any of the rights and obligations accruing to the Contracting Parties from the United Nations Charter;

And having realised the great responsibilities borne by them in their capacity as members of the United Nations concerned with the maintenance of peace and security in the Middle East region which necessitate taking the required measures in accordance with article 51 of the United Nations Charter;

They have been fully convinced of the necessity of concluding a pact fulfilling these aims, and for that purpose have appointed as their plenipotentiaries . . . who having communicated their full powers, found to be in good and due form, have agreed as follows:—

ARTICLE 1

Consistent with article 51 of the United Nations Charter the High Contracting Parties will co-operate for their security and defence. Such measures as they agree to take to give effect to this co-operation may form the subject of special agreements with each other.

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[1] British Misc. No. 5 (1955), Cmd. 9429. Signed by Iraq and Turkey at Baghdad, Feb. 24, 1955; ratifications exchanged, Apr. 15, 1955; adhered to by U.K. (Apr. 5, 1955), by Pakistan (Sept. 23, 1955); by Iran (Oct. 23, 1955). For statements on United States attitude toward the Baghdad Pact, see Department of State *Bulletin*, Mar. 1, 1954, pp. 327–328; Oct. 3, 1955, p. 534; Oct. 24, 1955, p. 653; Nov. 28, 1955, p. 895. On invitation, the United States sent observers (Ambassador Waldemar Gallman and Admiral John H. Cassady) to the first meeting of the Baghdad Pact Council, Baghdad, Nov. 21–22, 1955 (*ibid.*, Dec. 5, 1955, p. 926, and Jan. 2, 1956, p. 16). For communiqué on the first meeting, see *ibid.*, pp. 16–18.

[2] United Nations Treaty Series, vol. XXXVII, pp. 226 ff.

[3] *Supra*, doc. 2.

ARTICLE 2

In order to ensure the realisation and effect application of the co-operation provided for in article 1 above, the competent authorities of the High Contracting Parties will determine the measures to be taken as soon as the present pact enters into force. These measures will become operative as soon as they have been approved by the Governments of the High Contracting Parties.

ARTICLE 3

The High Contracting Parties undertake to refrain from any interference whatsoever in each other's internal affairs. They will settle any dispute between themselves in a peaceful way in accordance with the United Nations Charter.

ARTICLE 4

The High Contracting Parties declare that the dispositions of the present pact are not in contradiction with any of the international obligations contracted by either of them with any third State or States. They do not derogate from and cannot be interpreted as derogating from, the said international obligations. The High Contracting Parties undertake not to enter into any international obligation incompatible with the present pact.

ARTICLE 5

This pact shall be open for accession to any member of the Arab League or any other State actively concerned with the security and peace in this region and which is fully recognised by both of the High Contracting Parties. Accession shall come into force from the date of which the instrument of accession of the State concerned is deposited with the Ministry for Foreign Affairs of Iraq.

Any acceding State party to the present pact may conclude special agreements, in accordance with article 1, with one or more States parties to the present pact. The competent authority of any acceding State may determine measures in accordance with article 2. These measures will become operative as soon as they have been approved by the Governments of the parties concerned.

ARTICLE 6

A Permanent Council at ministerial level will be set up to function within the framework of the purposes of this pact when at least four Powers become parties to the pact.

The Council will draw up its own rules of procedure.

ARTICLE 7

This pact remains in force for a period of five years renewable for other five-year periods. Any Contracting Party may withdraw from the pact by notifying the other parties in writing of its desire to do so six months before the expiration of any of the above-mentioned periods, in which case the pact remains valid for the other parties.

ARTICLE 8

This pact shall be ratified by the contracting parties and ratifications shall be exchanged at Ankara as soon as possible. Thereafter it shall come into force from the date of the exchange of ratifications.

In witness whereof, the said plenipotentiaries have signed the present pact in Arabic, Turkish and English, all three texts being equally authentic except in the case of doubt when the English text shall prevail.

Done in duplicate at Bagdad this second day of Rajab 1374 Hijri corresponding to the twenty-fourth day of February 1955.

. . . .

Part VIII

WESTERN HEMISPHERE DEVELOPMENTS

Peaceful Settlements Under the Rio Pact [1]

1. THE COSTA RICA-NICARAGUA INCIDENT (1948–1949): Report by the Adviser [2] to the United States Member of the Committee of Information, Including the Conclusions of the Committee and Actions Taken by the Council of the Organization of American States, June 5, 1949 (Excerpts) [3]

On December 3, 1948, the Inter-American Treaty for Reciprocal Assistance, more familiarly known as the Rio treaty,[4] entered into force. A scant week after the elaborate ceremony at the Pan American Union, Costa Rica, on December 11, requested that the treaty be invoked. This first test of the Rio machinery resulted in the establishment of numerous precedents in inter-American organization and in the interpretation of this mutual defense agreement. In view of the importance of these precedents and the general similarity between the Rio document and the North Atlantic pact,[5] it may be of interest to review in some detail the steps taken in the initial implementation of the Rio accord.

The Costa Rican action was taken in a letter of December 11, 1948, to the chairman of the Council of the Organization of American States (COAS) from Mario A. Esquivel, Ambassador of Costa Rica to Washington and representative of his government on the Council.[6] As is generally known, among the principal features of the treaty are stipulations concerning specific obligations on the part of the American

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[1] For a detailed discussion of the various applications of the Rio Pact by the Council of the Organization of American States, with pertinent documents, see *Aplicaciones del Tratado Interamericano de Asistencia Reciproca, 1948–1955* (Pan American Union, 1955).

[2] Article by W. Tapley Bennett, Jr.

[3] Department of State *Bulletin*, June 5, 1949, pp. 707–712 and 725.

[4] Treaty of Sept. 2, 1947; *supra*, pp. 789–796.

[5] Treaty of Apr. 4, 1949; *supra*, pp. 812–815.

[6] Pan American Union (PAU) doc. 1736. The U.N. Security Council was informed of the situation on Dec. 12, 1948 (U.N. doc. S/1116).

Republics in the event either of an armed attack or other threats to the integrity of any one of their number. The Costa Rican Ambassador's communication charged that on the night of December 10 Costa Rican territory had been invaded by armed forces proceeding from Nicaragua. The Ambassador stated that in the opinion of his government this violation of the territory of a sister republic with the aim of overthrowing its established government had precipitated a situation within the scope of article 6 of the Rio treaty. The Ambassador went on to request an immediate convocation of the Council of the Organization of American States to consider the situation. In his communication Ambassador Esquivel refrained from alleging official participation on the part of Nicaraguan Government, confining himself to statements that the invasion had resulted from preparations carried on openly in Nicaragua by a group of Costa Ricans and that the movement had proceeded from Nicaragua to Costa Rican territory. In response to this request and in view of the urgency of the situation, the chairman of the COAS, Ambassador Enrique V. Corominas of Argentina, called an extraordinary session of the Council for 3 p.m. on Sunday, December 12.

As the representatives of the American Republics assembled that afternoon, there was general awareness of the significant implications of the situation. The machinery provided in the Rio treaty was to be put into operation for the first time. The decisions taken, the procedures followed would serve as precedents for the future and would establish a pattern for the consideration of future controversies. Concurrent, therefore, with the rapid response to the Costa Rican call and the urgent consideration of practical steps to serve the immediate situation, careful assessment of the juridical aspects of the problem and of their import for future situations was required. Some felt that the application of the Rio treaty should be confined to conflicts between states and, since not even the aggrieved party here had charged direct action by the other state, there were perhaps no grounds for calling the treaty into action.

PERTINENT TREATY ARTICLES

A citation of pertinent articles of the treaty is here given. The first paragraph of article 3 provides as follows:

> The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

Article 6 reads as follows:

> If the inviolability or the integrity of the territory or the sovereignty or political independence of any American State should be affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation that might endanger the peace of America, the Organ of Consultation shall meet immediately in order to agree on

> the measures which must be taken in case of aggression to assist the victim of the aggression or, in any case, the measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.

The consensus was that, if the Rio treaty were to be invoked, article 6 was the provision applicable to the situation. It was then necessary to consider whether the application of article 6 would require a meeting of the Foreign Ministers to examine the problem and to decide on appropriate action. Article 11 of the treaty states that consultations

> shall be carried out immediately by means of the Meetings of Ministers of Foreign Affairs of the American Republics which have ratified the Treaty . . .

The calling together of the Foreign Ministers would have been, indeed, a serious step and would have brought with it many attendant complications and inevitable delays. Following the discussion on December 12, the Council came to the conclusion that there was insufficient information at hand to justify the immediate convocation of the Foregin Ministers as the Organ of Consultation provided. In conclusion, therefore, the Council adopted a resolution [1] providing for urgent study of the Costa Rican complaint and authorizing the chairman to seek full information from all appropriate sources. It was agreed that the Council would meet again on December 14, 48 hours later.

In pursuance of the authority given him, the chairman of the Council dispatched on the evening of the twelfth telegraphic messages to the Presidents of the 21 American Republics to apprise them of the situation and to bespeak the full cooperation of their respective governments in the maintenance of inter-American order, as well as their collaboration in such curative measures as might be decided on by the Council with respect to the instant case. On December 13 a circular telegram was addressed by the chairman to the 21 Foreign Ministers, in which they were requested to furnish any pertinent information on the problem.

On December 14, the Council assembled again in extraordinary session. On the basis of information supplied to the chairman, including a memorandum transmitted by the United States, and after lengthy discussion the meeting adopted the following resolutions: [2]

> 1. To convoke the meeting of Consultation of Ministers of Foreign Affairs to study the situation existing between Costa Rica and Nicaragua, the place and date of the meeting to be fixed later.
> 2. The Council of [the Organization of] American States to constitute itself Provisional Organ of Consultation as provided in Article 12 of the Treaty.
> 3. To authorize the Chairman of the Council to appoint a committee to investigate on the scene the alleged events and their antecedents.
> 4. To request all the American governments and the Secretary General of the OAS to extend full cooperation to the work of the committee which should undertake its task immediately.

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[1] PAU doc. 1742.

[2] PAU doc. 1789; see also U.N. doc. S/1171, Dec. 31, 1948.

INVESTIGATING COMMITTEE NAMED

The Provisional Organ of Consultation [1] met the following afternoon, December 15. The chairman of the Council announced that he had that morning designated a Committee of Information from among the members of the Council to proceed at once to Costa Rica and Nicaragua. Its membership was as follows:

Ambassador José María Bello of Brazil
Ambassador Silvio Villegas of Colombia
Ambassador Luis Quintanilla of Mexico
Ambassador Juan Bautista de Lavalle of Peru
Ambassador Paul C. Daniels of the United States

The Peruvian member was unable to serve, so the Committee was composed of the four Ambassadors, together with their political and military advisers and a secretariat made available by the Pan American Union. The entire group consisted of 14 persons.

The Foreign Ministers of the American Republics were informed of this action by the chairman, and, in accord with article 15 of the treaty, a communication was immediately addressed to the chairman of the Security Council of the United Nations to inform that body of the situation under consideration by the Provisional Organ of Consultation. The chairman also placed in the minutes of the meeting a copy of the letter of appointment of the five members of the Committee of Information. This communication did not give detailed instructions to the Committee but called on it to organize immediately and to adopt such measures as it might consider necessary for the fulfillment of its duties. The Committee was thus given wide discretion as to the exercise of its functions.

The Committee departed from Washington on the evening of December 16 in a special plane made available by the United States Government and flew directly to Costa Rica, arriving at San José in the afternoon of December 17. After 2½ days in Costa Rica the Committee flew to Managua, Nicaragua, for a 2-day visit, whence the return to the United States by way of Mexico was made. The group arrived back in Washington in the early morning of December 23, less than a week after its departure for Central America.

[***Here follows an account of the Committee's activities in Costa Rica and Nicaragua, and of the preparation of the conclusions.***]

The Council of the Organization of American States, acting as the Provisional Organ of Consultation under the Rio treaty, assembled once again in extraordinary session on Christmas Eve, at 10:30 a. m. This meeting lasted until 5 p. m., with only one 10-minute recess in the late afternoon. It was voted to make the session open to the press and the public. The Committee of Information presented its report which follows below in substance:[1]

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[1] The Council of the Organization of American States—as provided in article 12 of the Rio Pact.

[Translation]

CONCLUSIONS UNANIMOUSLY ADOPTED BY THE COMMITTEE OF INFORMATION OF THE PROVISIONAL ORGAN OF CONSULTATION (COUNCIL OF THE ORGANIZATION OF AMERICAN STATES)

1. The members of the Committee do not doubt that the revolutionary movement which broke out in Costa Rica was organized principally in the territory of Nicaragua. It was in Nicaragua that a large group of Costa Rican political exiles, headed by Calderón Guardia prepared the expedition which later crossed the frontier between Nicaragua and Costa Rica. There is not the least doubt that the Government of Nicaragua did not take adequate measures to prevent the development of revolutionary activities directed against a neighboring and friendly country.

2. From December 10, it appears that the Government of Nicaragua actually began to take the necessary measures to the end that the rebels, who had already crossed the frontier, might not continue to receive assistance from Nicaragua; but the principal nucleus of the revolutionaries, composed of Costa Ricans and Nicaraguans, had already entered the territory of Costa Rica when the measures to which we refer were taken.

3. The Committee did not find any proof that the armed forces of the Government of Nicaragua had participated, on Costa Rican territory, in this revolutionary movement against the Government of Costa Rica, although, as a result of its investigations, it has the impression that certain military elements in Nicaragua, perhaps on their own account, might have furnished technical assistance to the groups which later were to cross the frontier.

4. The Committee had no knowledge of any contact between armed forces of Nicaragua and armed forces of Costa Rica.

5. As certain Costa Rican elements have declared, the failure to fulfill the pact of amnesty which was solemnly signed explains to a great extent why the large majority of the exiles were obligated to resort to desperate and violent measures, with serious international repercussions.

6. On the other hand, it is undeniable that for many months before the invasion, the so-called Legion of the Caribbean or Caribbean Legion, with the material and moral support of the Government of Costa Rica, received official favor and facilities to develop its programs and activities, both of which were directed, according to the prevailing opinion in the Caribbean region, toward the overthrow of certain Governments, including the present Nicaraguan regime.

7. The existence of active military centers of international agitation constitutes, as it is natural to suppose, a justifiable ground for preoccupation on the part of the Governments affected.

8. This situation, which is abnormal and dangerous for American

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[1] PAU doc. 918.

international peace, explains why the majority of the Central American and Caribbean Republics have been living in an atmosphere of mutual distrust, constant anxiety, and open hostility for some time.

9. The situation is all the more regrettable since, because of the characteristics which we have pointed out, the international relations of the republics involved must, of necessity, become more strained each day, as the fear of the intentions of one neighboring country obliges the other to take the precautions which it considers necessary, with serious detriment to its own economy and with grave danger to institutional life.

. . . .

ACTION BY THE PROVISIONAL ORGAN OF CONSULTATION

After discussing the Committee's conclusions, the Provisional Organ of Consultation adopted the following resolution: [1]

[Translation]

RESOLUTION OF THE PROVISIONAL ORGAN OF CONSULTATION

The Council of the Organization of American States, acting as the Provisional Organ of Consultation, after carefully examining the detailed report of the Commission which was in Costa Rica and Nicaragua for the purpose of investigating the facts and antecedents of the situation created between these sister Republics.

Resolves:

I. To request that the Governments of Costa Rica and Nicaragua, in fulfillment of the Inter-American Treaty of Reciprocal Assistance, give the Provisional Organ of Consultation full guaranties that they will abstain immediately from any kind of hostile acts toward each other.

II. To inform the Government of Nicaragua respectfully that, in the light of the data gathered by the Committee of Investigation especially appointed for the purpose, that Government could and should have taken adequate measures in due time for the purpose of preventing: (*a*) the development, on Nicaraguan territory, of activities aimed at overthrowing the present government of Costa Rica, and (*b*) the departure from Nicaraguan territory of revolutionary forces which crossed the frontier and are now prisoners or fighting against the Government of Costa Rica.

III. To inform the Government of Costa Rica respectfully that it can and should take adequate measures to prevent the existence on its territory of domestic or foreign groups militarily organized with the deliberate purpose of conspiring against the security of Nicaragua and other sister Republics and of preparing to fight against their Governments.

IV. To request both Governments very earnestly to observe loyally by all the means in their power the principles and rules of non-intervention and solidarity contained in the various Inter-American instruments signed by them.

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[1] PAU doc. 1863.

V. To continue in consultation until they receive from the Governments of Costa Rica and Nicaragua clear assurances that, [as] they undoubtedly are resolved to do, they will be bound strictly by those lofty principles and rules that constitute the juridical basis of American relationships.

VI. To recommend to all American Governments that they actively collaborate for the better fulfillment of the principles by which this Resolution is inspired.

VII. To inform all States Members of the Organization of the steps taken in this case, for their better information.

(Approved on December 24, 1948.)

APPOINTMENT OF A COMMITTEE OF MILITARY EXPERTS

In addition to the principal resolution the Provisional Organ also voted to designate an inter-American committee of military experts to be composed of not more than three representatives from each of five member states.[1] This committee was directed to proceed to Costa Rica and Nicaragua at the earliest possible date for the purpose of "contributing to the effective fulfillment of the resolution adopted on this date," that being the resolution of December 24. Brazil, Colombia, Mexico, Paraguay, and the United States were subsequently requested by Chairman Corominas to appoint representatives of their armed forces to this committee. These actions were duly reported to the governments of the American Republics and to the President of the Security Council.

In his letter of instruction [2] to the members of the military committee, Chairman Corominas called attention to the confusing situation existing along the frontier between Costa Rica and Nicaragua and outlined duties and obligations of both governments under the 1928 Habana convention on the duties and rights of states in the event of civil strife.[3] The committee of military experts was directed to inform the Provisional Organ of Consultation immediately of any violation of the December 24 resolution, and it was authorized, on prior agreement of the Governments of Costa Rica and Nicaragua, to give assistance to those Governments in the application of the measures called for in that resolution. The committee was informed that the duration of its mission would be determined by the Provisional Organ of Consultation.

The Mexican and United States members departed for Costa Rica on December 28 and were joined there by the other representatives. Members of the Committee spent more than 2 months in Costa Rica and Nicaragua. They traveled between the two countries, visited the border areas involved in the military action, and were in continuing communication with the two governments concerning compliance with the terms of the December 24 resolution. The Committee sent periodic reports to and received instructions from the Provisional Organ of Consultation. In a report transmitted from Managua on January 31 [1] the Committee expressed the view that the official measures taken by the Costa Rican and Nicaraguan Governments in pursuance of the December 24 resolution were sufficient to comply with the terms of the resolution.

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[1] PAU doc. 1864.

[2] PAU doc. 1925.

[3] *Report of the Delegates of the United States of America to the Sixth International Conference of American States, Habana, Cuba, January 16 to February 20, 1928* (Washington, 1928), pp. 228–230; Treaty Series 814 (46 Stat. 2749).

PACT OF AMITY—TERMINATION OF THE INCIDENT

This report gave impetus to the efforts under way in Washington through the Provisional Organ of Consultation to bring about a final solution of the controversy. A committee was appointed to draw up a brief document which might be signed by the Governments of Costa Rica and Nicaragua to indicate their compliance with the directives of the Council and their desire to bring an end to the existing situation. The representatives of Costa Rica and Nicaragua on the Council participated in the work of the committee. There resulted a Pact of Amity, which was signed at the Pan American Union on February 21, 1949, by the Costa Rican and Nicaraguan Ambassadors on behalf of their governments.[2] In the pact the two governments bound themselves to avoid such controversies in the future and to submit any disputes to pacific settlement in accord with existing inter-American agreements. The two governments agreed to negotiate an accord providing for appropriate internal measures and border controls with the purpose of preventing a repetition of incidents tending to disturb the tranquil relations of the two countries. It was provided that the pact would be ratified by the two governments. Copies of the document were sent at once by the Pan American Union to the 21 American Republics and to the Secretary-General of the United Nations.

Following this peaceful solution of a controversy which had at one time threatened open armed conflict between two members of the American community, the Council took a final resolution [3] in termination of the incident. Summarizing the steps which had been taken since the establishment of the Provisional Organ of Consultation on December 14, including the naming of the Committee of Information and the later committee of military experts, the resolution concluded that the circumstances which had brought the convocation in the December 14 resolution of a consultation of Foreign Ministers no longer existed. Accordingly, the call for consultation was revoked, and with it the labors of the military committee and of the Provisional Organ of Consultation were terminated. A paragraph of this final action in the Costa Rica-Nicaragua incident resolved "to present this noble conduct of American solidarity and of respect for pacific solution as a new and high example for all the peoples of the continent."

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[1] PAU doc. 2294.

[2] PAU doc. 2494; Pan American Union Law and Treaty Series 30. Instruments of ratification of the pact were deposited by Costa Rica, June 20, 1949, and by Nicaragua, July 15, 1949, when the pact entered into force.

[3] PAU doc. 2358.

2. THE SITUATION BETWEEN HAITI AND THE DOMINICAN REPUBLIC: Decision of the Council of the Organization of American States, February 25, 1949 [1]

The note of February 15 presented by the Ambassador of Haiti to the Chairman of the Council at the meeting of February 16 (Doc. C–a–18, pp. 356–361) [2] was debated at length at a subsequent meeting of the Council held on February 23, 1949 (Doc. C–a–19). A special committee [3] was appointed at the latter meeting to examine the situation and recommend appropriate action. At today's meeting the committee presented the following draft resolution, which was approved by the Council:

WHEREAS:

During the course of the discussion that followed the request of February 15 presented by the Representative of the Government of Haiti; the Council noted with pleasure the statements affording a basis of hope that Haiti and the Dominican Republic may arrive at a friendly agreement through recourse to the peaceful procedures provided in applicable inter-American instruments, [4]

The Council of the Organization of American States

RESOLVES:

1. To refrain, under the circumstances, from convoking the Organ of Consultation.
2. To express the hope that good relations between Haiti and the Dominican Republic may be strengthened, and friendship between the two nations thus deepened.

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3. THE CARIBBEAN SITUATION: Decisions, With an Introductory Statement, Adopted by the Council of the Organization of American States, April 8, 1950 [5]

The Council of the Organization of American States, at a special meeting held on January 6, 1950,[6] took cognizance of both the Note presented by the Delegation of Haiti, dated January 3, 1950, which requested that the Organ of Consultation be convoked in conformity with the Inter-American Treaty of Reciprocal Assistance, and the

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[1] *Decisions Taken at the Meetings of the Council of the Organization of American States*, vol. II (1949), p. 18.

[2] Haiti charged that one Astrel Roland, former colonel in the Haitian Army, was involved in a plot to overthrow the Constitutional Government of Haiti, with the knowledge and approval of the Dominican Government.

[3] Consisting of the representatives of Chile, Mexico, Nicaragua, the United States, and Uruguay.

[4] Haiti also had recourse to the Inter-American Peace Committee on Mar. 24, 1949; see *infra*, doc. 6.

[5] *Decisions Taken at the Meetings of the Council of the Organization of American States*, vol. III (1950), pp. 24–34.

[6] *Ibid.*, pp. 4–5.

Note presented at that meeting by the Delegation of the Dominican Republic. At that meeting the Council decided to convoke the Organ of Consultation as provided in the aforesaid Treaty; to constitute itself provisionally as Organ of Consultation; and to appoint a Committee to investigate on the spot the events and antecedents mentioned in the Notes of Haiti and the Dominican Republic. The Committee, which was composed of Ambassadors José A. Mora (Uruguay), Chairman; Paul C. Daniels (United States); Guillermo Gutiérrez (Bolivia); Eduardo Zuleta Angel (Colombia); and Minister Alfonso Moscoso (Ecuador), submitted a report giving the results of its work to the Council at the meeting of March 13, 1950.[1] At the April 8 meeting, the Council adopted the following decisions:

I

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

Having seen the Report presented by the Committee which investigated the facts and antecedents to which the Note of the Haitian Government of January 3, 1950, refers; and

CONSIDERING:

That the Organ of Consultation, convoked January 6, 1950, in conformity with Article 6 of the Inter-American Treaty of Reciprocal Assistance,[2] should take the steps it considers most advisable for the maintenance of the peace and security of the Continent,

DECLARES:

1. That the facts verified by the Investigating Committee, from among those charged against the Government of the Dominican Republic are contrary to norms contained in several inter-American instruments, such as the Convention on the Rights and Duties of States, signed at Montevideo in 1933;[3] the Additional Protocol Relative to Non-Intervention, signed at Buenos Aires in 1936,[4] the principle of which is also contained in Article 15 of the Charter of the Organization of American States,[5] as well as in other provisions that govern the peaceful relations of the Members of the Organization;
2. That the danger to international peace that might arise from the events that have affected relations between Haiti and the Dominican Republic has fortunately been dispelled; but that, because of their gravity, those events might have very seriously disturbed American solidarity; and that, if repeated, they would

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[1] *Decisions Taken at the Meetings of the Council of the Organization of American States*, vol. III (1950), p. 18. The text of the report was issued by the Council as doc. C–i–67–e. For a detailed discussion of the situation and the activities of the Investigating Committee, see also *Aplicaciones del Tratado Interamericano de Asistencia Reciproca, 1948–1955.*

[2] The "Rio Pact" of Sept. 2, 1947; *supra*, pp. 789–796.

[3] Treaty of Dec. 26, 1933; Treaty Series (TS) 881 (49 Stat. 3097).

[4] Protocol of Dec. 23, 1936; TS 923 (51 Stat. 41).

[5] Charter of Apr. 30, 1948; *A Decade of American Foreign Policy*, pp. 427–445.

give occasion for application of the procedures of the Inter-American Treaty of Reciprocal Assistance in order to protect the principle of non-intervention and to ensure the inviolability or the integrity of the territory or the sovereignty or the political independence of any American State against aggression on the part of any State or group of States;

3. That, on the other hand, the laws that have been passed in the Dominican Republic to repeal the war powers granted by its Congress to the Executive Power, and to prevent subversive activities on the part of political refugees in its territory, express a clear intention to maintain peace, and show its disposition that, in the future, those events will not be repeated; and

RESOLVES:

1. To request the Government of the Dominican Republic to take immediate and effective measures to prevent government officials from tolerating, instigating, encouraging, aiding, or fomenting subversive or seditious movements against other Governments;

2. To request the Dominican Government to comply strictly with the Joint Declaration of June 9, 1949,[1] the observance of which is equally the responsibility of the Haitian Government;

3. To point out to both Governments the advisability of strengthening their relations on the basis of a bilateral treaty inspired in the aims of the Habana Convention of 1928 on the Duties and Rights of States in the Event of Civil Strife,[2] and also, taking into account the special geographical situation of Haiti and the Dominican Republic, the advisability of incorporating in the agreement or treaty that they sign special provisions to prevent the inhabitants, national or foreign, of each country, from taking part in activities of any kind capable of disturbing the internal order of the neighboring country;

4. To point out to the Governments of Haiti and the Dominican Republic the advisability of reaching a bilateral agreement to deal with the problems connected with the employment of Haitian workers in the Dominican Republic;

5. To request the Governments of Haiti and the Dominican Republic to make every effort, within the limits of their respective constitutional powers, to avoid the continuation of any systematic and hostile propaganda, expressed through any medium whatsoever, against each other, or against other American countries and their respective Governments;

6. Finally, inspired by the basic principle of American solidarity, to express its fervent hope that both sister Republics, once the present difficulties have been removed, will find means of reestablishing, as soon as possible, the good relations that should always exist among all the members of the American community.

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[1] Department of State *Bulletin*, June 26, 1949, p. 833.

[2] Convention of Feb. 20, 1928; TS 814 (46 Stat. 2749).

II

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That the Report submitted by the Investigating Committee[1] which was created by the Organ of Consultation in its Resolution of January 6, 1950, clearly establishes that in the past there did exist, and that in some respects there still persists, an abnormal situation constituting a threat to the established institutions of the nations in the Caribbean area and an obstacle to the maintenance of normal friendly relations among certain States located therein;

That the Organ of Consultation, having been convoked to study this situation, is therefore under an obligation, in accordance with Article 6 of the Inter-American Treaty of Reciprocal Assistance, to take steps which contribute to the maintenance of the peace and security of the Continent,

DECLARES:

1. That there existed within Cuba in 1947 and within Guatemala in 1949 armed groups of various nationalities, which were not part of the regular armed forces of those countries and which were animated by the unconcealed purpose of overthrowing the Government of the Dominican Republic by force;

2. That officials of the Governments of Cuba and Guatemala not only expressed openly their sympathy with these subversive organized movements, but in some cases lent them aid;

3. That the facts verified by the Investigating Committee, from among those charged against the Governments of Cuba and Guatemala, are contrary to principles set forth in various inter-American instruments, such as the Convention on Rights and Duties of States, signed at Montevideo in 1933,[2] the Additional Protocol Relative to Non-Intervention signed at the Inter-American Conference for the Maintenance of Peace (Buenos Aires, 1936),[3] the Convention on the Duties and Rights of States in the Event of Civil Strife, concluded at Habana in 1928,[4] and the Charter of the Organization of American States;[5]

4. That likewise there occurred on the part of the Dominican Republic acts which are set forth in the Report and Conclusions of the Investigating Committee and some examined in Resolution I of the Council acting provisionally as Organ of Consultation, which evidently are contrary to the standards of harmonious inter-American relations subscribed to by all the American Governments;

5. That, even though the said facts fortunately did not result in the violation of international peace, they did very seriously weaken American solidarity; and if they were to persist or recur,

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[1] Report presented to the Council on Mar. 13, 1950; doc. C-i-67-e.

[2] Treaty of Dec. 26, 1933; Treaty Series 881 (49 Stat. 3097).

[3] Protocol of Dec. 23, 1936; Treaty Series 923 (51 Stat. 41).

[4] Convention of Feb. 20, 1928; Treaty Series 814 (46 Stat. 2749).

[5] Charter of Apr. 30, 1948; *A Decade of American Foreign Policy*, pp. 427–445.

they would give occasion for the application of the procedures of the Inter-American Treaty of Reciprocal Assistance in order to protect the principle of non-intervention and to ensure the inviolability or the integrity of the territory or the sovereignty or the political independence of any American State against aggression on the part of any State or group of States;

6. That the declarations formulated by the Chief Executives, to which reference is made in the Report of the Committee,[1] constitute a guarantee against future recurrence of acts of this kind; and

RESOLVES:

1. To request the Governments of Cuba and Guatemala to adopt adequate measures so that they will not permit the existence in their territories of groups of nationals or foreigners organized on a military basis with the deliberate purpose of conspiring against the security of other countries; and to request also the Governments of Cuba, Guatemala, and the Dominican Republic to take adequate measures to ensure absolute respect for the principle of non-intervention, the observance of which is also, naturally, incumbent upon the Government of Haiti;

2. To request the Governments of Cuba and Guatemala to take effective measures to control war materials that may now be or may have been in the possession of the revolutionary groups, and to prevent illegal traffic in arms and possible use of the aforementioned war materials for purposes incompatible with inter-American juridical commitments;

3. To request the Governments of Cuba, Guatemala, Haiti, and the Dominican Republic to make every effort, within the limits of their respective constitutional powers, to avoid any systematic and hostile propaganda, expressed through any medium whatsoever, against one another, or against other American countries and their respective governments;

4. To recommend, in view of the fact that the bilateral negotiations initiated in September 1948 under the auspices of the Inter-American Peace Committee have not yet produced any satisfactory result, that the Governments of Cuba and the Dominican Republic make an effort to arrive as speedily as possible at a settlement of their controversy and that, if such a settlement should not be achieved within six months, this controversy should be submitted to one of the methods of pacific settlement specified in the Pact of Bogotá;[2]

5. To support the conclusions of the Inter-American Peace Committee, approved on September 14, 1949,[3] relative to the situation

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[1] The text of the report was issued by the Council as doc. C-i-67-e.

[2] *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948: Report of the Delegation of the United States of America* (Department of State publication 3263; 1948), pp. 186–201.

[3] Department of State *Bulletin*, Oct. 31, 1949, pp. 665–667. These conclusions may also be found in the *Second Report of the Inter-American Peace Committee Submitted to the Tenth Inter-American Conference,* Pan American Union, Feb. 3, 1954, pp. 30–33.

existing in the Caribbean area, on the understanding that the said conclusions are applicable not merely to the aforesaid situation, but to all American States without exception;

6. Finally, inspired by the basic principles of American solidarity, to express its fervent hope that the said sister Republics, once the present difficulties have been removed, will find means of reestablishing, as soon as possible, the good relations that should always exist among all members of the American community.

III

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That it has approved Resolutions designed to eliminate the factors that have for some time disturbed relations among certain American countries, and that, to facilitate compliance with the said Resolutions, it is advisable to establish a Special Committee, provisional [in] character and having a clearly defined purpose,

RESOLVES:

To appoint a Committee, composed of five of its Members, which, always respecting the principle of non-intervention, will acquaint itself with the manner in which Resolutions I and II are being carried out and place itself at the service of the interested Parties to facilitate compliance with the said Resolutions, in a thoroughly conciliatory spirit. This Committee shall submit within three months, and likewise at the conclusion of its work, a Report thereon to the Governments,[1] through the General Secretariat of the Organization of American States.

(NOTE: The Council decided that the Committee created by this Resolution shall be composed of the Members who made up the Investigating Committee, namely: Ambassadors José A. Mora (Uruguay); Paul C. Daniels (United States); Guillermo Gutiérrez (Bolivia); Eduardo Zuleta Angel (Colombia); and Minister Alfonso Moscoso (Ecuador).)[2]

IV

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That both the principle of representative democracy and that of non-intervention are established in many inter-American instruments, and that both are basic principles of harmonious relations among the countries of America; and

That there exists some confusion of ideas as to the means of harmonizing the effective execution and application of the basic principle of non-intervention and that of the exercise of representative democracy,

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[1] The Special Committee presented three reports: June 30, 1950; Oct. 31, 1950; and a final report on May 14, 1951.

[2] This "Note" appears in the document as adopted by the Council.

RESOLVES:

1. To reaffirm the principles of representative democracy, in accordance with Article 5 (d) of the Charter of the Organization of American States, and of suffrage and participation in the government, set forth in Article XX of the American Declaration of the Rights and Duties of Man,[1] as fundamental in the inter-American system, and to express the opinion that, consequently, agreement should be sought on legitimate means to make them completely effective;

2. To declare that the aforementioned principles do not in any way and under any concept authorize any Government or group of Governments to violate inter-American commitments relative to the principle of non-intervention or to give the appearance of legitimacy to violations of the rules contained in Article 1 of the Habana Convention of 1928, on Duties and Rights of States in the Event of Civil Strife, the Protocol Relative to Non-Intervention (Buenos Aires, 1936), and Article 15 of the Charter of the Organization of American States.[2]

V

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That among the factors that have helped create a situation susceptible of disturbing peace and security in the Caribbean area are some so complex and far-reaching that they require a careful study designed to enable the competent organs of the Organization of American States to take measures to bring about their definitive elimination;

That to this end and without prejudice to the measures that the Organ of Consultation may take in cases of conflicts between American States, in accordance with the Inter-American Treaty of Reciprocal Assistance,[3] the facts ascertained by the Investigating Committee show that other steps are needed;

That among the problems pointed out by the Investigating Committee are: that of making the principle of representative democracy more effective; that of strengthening and supplementing the principles and standards that the Governments should observe with relation to activities aimed at fomenting civil strife in other countries; and that of considering the problem created by the presence, in various countries, of political refugees and exiles proceeding from other American nations,

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[1] Adopted May 2, 1948. *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948: Report of the Delegation of the United States of America, With Related Documents* (Department of State publication 3263; 1948), pp. 260–266.

[2] These conventions and protocols are cited in the preceding resolutions.

[3] Cited in the preceding resolutions.

RESOLVES:

1. To recommend to the Council of the Organization that, through its competent Organs, it undertake as promptly as possible the study of the following matters:

a) The possibilities of stimulating and developing, within the provisions of Articles 13, 15, and 19 of the Charter of the Organization of American States,[1] and with due respect to the sovereignty of the States, the effective exercise of representative democracy, set forth in Article 5 (d) of the Charter, as well as in Article XX of the American Declaration of the Rights and Duties of Man.[1]

b) The strengthening and perfecting of the Habana Convention of 1928 on the Duties and Rights of States in the Event of Civil Strife,[1] in order to determine the measures that Governments should employ to prevent, within the territory under their jurisdiction, the preparation of activities designed to foment civil strife in other countries. In this study there should be taken into account the suitability of coordinating the said Convention and other inter-American instruments on the subject with the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, seeking, furthermore, to make effective Article 15 of the Charter of the Organization of American States.

c) Regimen of political asylees, exiles, and refugees.

2. The study of the point relative to the Habana Convention shall be entrusted in the first instance to the Department of International Law and Organization of the Pan American Union, which should begin by drafting a questionnaire addressed to all the American Governments, with the request that they indicate the modifications, clarifications, or amplifications that in their opinion the clauses of the aforesaid Habana Convention require.

3. When the replies are received from the Governments, it shall be incumbent upon the Department of International Law and Organization to prepare a draft Additional Protocol, which, when it has been found acceptable by the Council of the Organization of American States shall be submitted at once to the Governments for approval and opened for signature by their plenipotentiaries.

4. The study of points (a) and (c) shall be entrusted to the Inter-American Council of Jurists or, if that body is in recess, to the Inter-American Juridical Committee.

5. When such study has been completed, the Inter-American Council of Jurists or the Inter-American Juridicial Committee shall send to the Council of the Organization of American States a detailed Report, with the conclusions it has reached and the suggestions it considers advisable, so that the said topics may be included in the agenda of the Tenth Inter-American Conference or

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[1] Cited in the preceding resolutions.

of an earlier competent meeting.[1] In any event, the Council or the Committee shall report within six months to the Council of the Organization of American States, rendering an account of the status of the said study.

VI

THE COUNCIL authorized the Chairman to send the following Note to Dr. Gonzalo Guell, Ambassador, Representative of Cuba:

Mr. Ambassador:

I have the honor to reply to your kind note of January 11, 1950, in which you requested the opinion of the Council of the Organization of American States, acting as Provisional Organ of Consultation, as to "whether, in accordance with the Treaty of Reciprocal Assistance and the inter-American juridical system, it is permissible for the Chief Executive of the Dominican Republic to be invested, at his own instance, with powers to declare war upon any country that in his opinion is deliberately tolerating or supporting the concentration of forces organized, equipped, and trained on a military basis within its territory, for the purpose of invading the country of the said Executive".

May I begin my reply by saying that, in order to give pertinent reply to the serious question raised in the aforementioned Note, I considered it advisable to wait until I knew what the Investigating Committee of the Organ of Consultation had to say on this important matter, as well as to exchange impressions with our colleagues on the Council; I mention these facts in order to explain the reason for the delay that, very much to my regret, was necessary before I could reply to the question you raised.

I therefore take pleasure in replying by transcribing, with the authorization of the Members of the Organ of Consultation, the following concepts that appear in the Report of the Investigating Committee of the Organ of Consultation submitted to the said Organ at its meeting of March 13, 1950,[2] which read as follows:

> "(g). Furthermore, the Committee is convinced that the treaties and agreements in force among the American States, in assuring the integrity of these States and their defense in case of any aggression, have established the measures and the organs required to meet the needs of collective self-defense; and it is evident that the American States have formally condemned war and have undertaken to submit every controversy which may arise between them to methods of peaceful settlement. The Committee holds, therefore, that the attitude of any American Government resorting to the threat or the use of force, even on grounds of self-defense, in any manner inconsistent with the provisions of the Charter of the

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[1] Pertinent discussions at the Tenth Inter-American Conference are summarized in *Tenth Inter-American Conference, Caracas, Venezuela, March 1–28, 1954: Report of the Delegation of the United States of America, With Related Documents* (Department of State publication 5692; 1955), pp. 28–30.

[2] PAU doc. C-i-67-e.

United Nations, the Rio de Janeiro Treaty, and the Charter of the Organization of American States, and without having made every reasonable attempt at peaceful settlement, constitutes a violation of essential norms of inter-American relationships." (page 62)

Trusting that I have complied with your wishes, I remain

Cordially yours,

Luis Quintanilla
Chairman

VII

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That a settlement of the international difficulties that gave rise to its convocation has been made in a manner satisfactory to the collective interests of America;

That it is evident that the general situation of the Caribbean area contains characteristics of special complexity, since the situation concerning each of the Republics involved affects directly that of all the others;

That it is advisable, as a practical result of the work performed in this connection, to strengthen as much as possible, in permanent form, the peace and the prosperity of this important region of America,

RESOLVES:

To urge very cordially the Governments of the various States mentioned in any of the Resolutions approved that they, in the exercise of their respective sovereignties, attempt to find a manner for normalizing their mutual relations as soon as possible, thus giving to all the sister Republics of the Continent one proof more of their deep-rooted American sentiments.

VIII

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That the Charter of the Organization of American States[1] constitutes without doubt the juridical foundation of the structure of our regional agency, and hence the prompt ratification thereof is a matter of justifiable and deep concern for all the American States;

That Article 23 of the aforesaid Charter provides that a special treaty will establish adequate procedures for the pacific settlement of disputes and will determine the appropriate means for their application, so that no dispute between American States shall fail of definitive settlement within a reasonable period;

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[1] *A Decade of American Foreign Policy*, pp. 427–445.

That in fulfillment of the said Article 23 of the Charter of the Organization, the American Governments signed in Bogotá, at the Ninth International Conference of American States, the American Treaty on Pacific Settlement (Pact of Bogotá);[1]

That in spite of the time that has elapsed since they were signed, so far only five ratifications of the Charter[2] and three of the American Treaty on Pacific Settlement have been deposited with the General Secretariat of the Organization of American States;[3] and

That the ratification of both instruments not only will normalize the functioning of the Organization, but also notably strengthen the procedures for the pacific settlement of any dispute,

RESOLVES:

To express the hope that the American Governments which have not yet been able to ratify the Charter of the Organization of American States and the American Treaty on Pacific Settlement will be willing to give full attention to this matter, with a view to obtaining, in accordance with their respective constitutional procedures, the prompt ratification of those two Instruments, which are basic to the stability and welfare of the American community.

IX

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, acting provisionally as ORGAN OF CONSULTATION,

CONSIDERING:

That the Investigating Committee, appointed by the Resolution of January 6, 1950, to clarify the events denounced by the Republic of Haiti and by the Dominican Republic, and their antecedents has fulfilled the difficult mandate that was entrusted to it with exemplary diligence and absolute impartiality, and with no other interest than the general welfare of the American community;

That, because of that fact, the publication of the Report of the Committee and the good will and lofty spirit that the interested Parties have shown, have contributed to the almost complete clarification of the situation that gave rise to the application of the Inter-American Treaty of Reciprocal Assistance, creating instead an atmosphere of optimism and confidence;

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[1] *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948: Report of the Delegation of the United States of America* (Department of State publication 3263; 1948), pp. 186–201.

[2] As of Apr. 8, 1950 (the date on which this resolution was adopted by the Council), the following states had deposited their instruments of ratification of the Charter: Costa Rica, Nov. 16, 1948; Mexico, Nov. 23, 1948; the Dominican Republic, Apr. 22, 1949; Honduras, Feb. 7, 1950; and Brazil, Mar. 13, 1950. The United States deposited its instrument of ratification June 19, 1951, and the charter entered into force Dec. 13, 1951.

[3] As of Apr. 8, 1950 (the date on which this resolution was adopted by the Council), the following states had deposited their instruments of ratification of the Pact of Bogotá: Costa Rica, May 6, 1948; Mexico, Nov. 23, 1948; and Honduras, Feb. 7, 1950.

That, furthermore, the Resolutions proposed by the Investigating Committee and approved by the Organ of Consultation substantially as submitted, are of such a nature that, without detriment to the principles on which the inter-American system rests, they will readily enable it to meet eventualities which may occur and to prevent any future situation analogous to that which gave rise to the present procedures;

That, because of the foregoing the further application of the emergency action contemplated in the aforesaid treaty no longer seems necessary,

RESOLVES:

1. To declare that Ambassadors José A. Mora, (chairman), Guillermo Gutiérrez, Eduardo Zuleta Angel, Paul C. Daniels, and Minister Alfonso Moscoso, who composed the Investigating Committee, have deserved well of the nations of America, and consequently merit the vote of confidence and gratitude that the Council of the Organization of American States hereby accords them;
2. To terminate the provisional action of the Council as Organ of Consultation; and
3. To cancel the convocation of the Meeting of Ministers of Foreign Affairs that, in compliance with the Inter-American Treaty of Reciprocal Assistance, was contained in the Resolution of January 6, 1950.

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4. THE COSTA RICA–NICARAGUA INCIDENT (1955): Report of the Investigating Committee, Presented to the Council of the Organization of American States on February 18, 1955 (Excerpts)[1]

I. Report of Activities

On January 11, 1955, the Council of the OAS, which had taken note the previous day of the communication presented by Dr. Antonio Facio, Ambassador of Costa Rica, resolved to constitute itself provisionally as Organ of Consultation,[2] in accordance with Article 12 of the Inter-American Treaty of Reciprocal Assistance,[3] and agreed, among other measures, to authorize its Chairman to appoint a Committee to conduct an on-the-spot investigation of the pertinent facts and submit a report thereon.

On the night of that day, the 11th, Ambassador José A. Mora, Chairman of the Council, appointed the Representatives of the follow-ng countries as members of this Committee: Brazil, Ecuador, Mexico, Paraguay, and the United States. Thus constituted, the Investigat-ng Committee immediately held its first meeting. Ambassador Luis Quintanilla, Representative of Mexico, was elected Chairman of the Committee on the suggestion of Ambassador Fernando Lobo, Representative of Brazil, which was promptly supported by the other members of the Committee, Ambassadors John C. Dreier of the United States, José R. Chiriboga of Ecuador, and Guillermo Enciso Velloso of Paraguay. The Committee, installed from that time on as the "Investigating Committee of the Council of the OAS acting provisionally as Organ of Consultation", held a short meeting that same night and decided to leave for Costa Rica and Nicaragua at 6:00 a.m. the following day.

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[1] *Annals of the Organization of American States* (OAS), vol. VII, No. 2 (1955), pp. 149–157.

[2] PAU doc. C-d-338.

[3] *Supra*, pp. 789–796.

[*Here follows a list of the staff of the committee, an account of the committee's investigative activities, January 12–28, 1955, and the preparation of the report.*]

II. CONCLUSIONS OF THE COMMITTEE

As a result of its work, of the exhaustive investigations carried out in Costa Rica and Nicaragua, and of an objective examination of various material elements, the Committee wishes to point out the following facts:

1. There was foreign intervention in the preparation, financing, furnishing of arms and ammunition, and transportation facilities to the persons who entered Costa Rica by force.
2. A substantial number of the rebel forces and the war materials used by them, whatever their origin, entered by way of the Costa Rican–Nicaraguan frontier.
3. One or more clandestine radio stations, apparently operating outside Costa Rica, incited the people of that country to support the rebel movement.
4. Aircraft proceeding from abroad dropped arms and ammunition for the rebels at predetermined points in Costa Rican territory.
5. Transport and combat planes, proceeding from abroad and without identification marks, landed clandestinely on Costa Rican territory and made flights in which they bombed and machine-gunned various towns of that country, including San José, the capital of the Republic.
6. There was violation of the territorial integrity, sovereignty, and political independence of Costa Rica.
7. After the Investigating Committee had established a system of pacific aerial observation over Costa Rican and Nicaraguan territory, had also, through its military advisers, established a system of land observation in strategic zones of both countries, and had set up Security Zones in areas of Costa Rica and Nicaragua contiguous to the frontier, the attacking forces abandoned their offensive and fell back toward the northwestern frontier, a large number of them being ultimately interned in Nicaragua.
8. Even after the rebels who had been fighting in the western part of Costa Rican territory were interned in Nicaragua, a considerable number of them reappeared and fought again on Costa Rican territory, this time in the central region of the frontier with Nicaragua.

A large majority of the members of the attacking forces and the olitical leaders of the movement were of Costa Rican nationality. This circumstance does not, however, in any way alter what has been pointed out in the preceding numbered paragraphs.

It was possible for these basic facts to be impartially established by he Investigating Committee and they further justify the decisions aken by the Council of the OAS, and later by the Council acting provisionally as Organ of Consultation, including its approval on January 4, 1955, of a resolution "to condemn the acts of intervention of which Costa Rica is victim"[1].

II. The Recommendations Which the Committee Submits to the Council

The territorial integrity, sovereignty, and political independence of Costa Rica have now been re-established with the action of the OAS. Since this is so, and in view of the cooperation given to the Investiating Committee from the very start by the Governments of both Costa Rica and Nicaragua, it is reasonable to think that Costa Rica nd Nicaragua, assured of their internal peace and without foreign ntervention of any kind, will soon be able to resume peaceful relations at will enable both countries to develop freely their basic institutions n the foundation of mutual respect which characterizes the relations etween American states.

Finally, in view of the foregoing, and inspired by the spirit of Article 7 of the Inter-American Treaty of Reciprocal Assistance and y the principles of American solidarity, the Committee would like espectfully to suggest that it is desirable:

1. That the "Pact of Amity" signed on February 21, 1949,[2] by the Governments of Costa Rica and Nicaragua, under the auspices of the Council, acting provisionally as Organ of Consultation, for the purpose of preventing a repetition of acts such as those that have in the past seriously disturbed the relations between the two countries, be perfected and strengthened.
2. That the Governments of Costa Rica and Nicaragua prepare and sign the Bilateral Agreement mentioned in Article IV of the aforesaid Pact "as to the best manner of putting into practice the provisions of the Convention on the Duties and Rights of States in the Event of Civil Strife, in cases contemplated by that Convention, so that it may be applied immediately whenever a situation of this kind arises, in the manner provided for in the said agreement, especially with respect to measures for the control and supervision of frontiers, as well as with respect to any other measure intended to prevent the organization or existence of any revolutionary movement against the Government of either of the two Parties in the territory of the other."

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[1] *Annals of the Organization of American States*, vol. VII, No. 2 (1955), p. 157; *plicaciones del Tratado Interamericano de Asistencia Reciproca, 1948–1955*, p. 168.

[2] Pan American Union Law and Treaty Series 30. See "The Costa Rica–Nicaragua Incident, 1948–1949" *supra* (doc. 1) for events leading to the conclu-on of the pact.

3. That when the aforesaid Pact is revised an additional article be included for the purpose of preventing the preparation of terroristic acts in the territory of either Party against the government of the other.

4. That the Governments of Costa Rica and Nicaragua, for the purposes set forth in the aforesaid "Pact of Amity" in force between them, proceed at once, without prejudice to any other procedure they may agree upon, to appoint the members of a Commission of Investigation and Conciliation in accordance with Chapter Three of the American Treaty on Pacific Settlement (Pact of Bogotá) [1] that would constitute a permanent guarantee, for both, of the friendly and satisfactory settlement of any difficulty that might arise as a result of situations such as those envisaged in the aforementioned "Pact of Amity".

5. That, as a general measure, desirable for all the American states, consideration be given to the improvement of the systems for controlling the traffic in arms and ammunition and also to the effective application of the recommendation contained in Resolution XI of the Inter-American Conference for the Maintenance of Continental Peace and Security that "no stipulation of the Treaty nor any of the obligations created under it should be interpreted as justifying excessive armaments or may be invoked as a reason for the creation or maintenance of armaments or armed forces beyond those required for common defense in the interest of peace and security." [2]

6. That the Council of the Organization of American States, acting provisionally as Organ of Consultation, offer its collaboration to the two Governments concerned for the purpose of perfecting the "Pact of Amity" to which the preceding paragraphs refer.

7. That, taking into consideration the gradual re-establishment of a normal international relationship between Costa Rica and Nicaragua, the provisional action of the Council as Organ of Consultation be duly terminated and the American governments consulted with respect to the cancellation of the Meeting of Ministers of Foreign Affairs as Organ of Consultation.

Finally, it is the sincere hope of the Committee that, as soon as circumstances permit, the Governments of Costa Rica and Nicaragua and the Chief Executives of those sister nations will be able to take steps, not only to re-establish their peaceful relations, but also to aid one another mutually in the realization of their common purposes and aspirations.

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[1] For text of the treaty, see *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948* (Department of State publication 3263; 1948), pp. 186–201.

[2] See *Inter-American Conference for the Maintenance of Continental Peace and Security, Quitandinha, Brazil, August 15–September 2, 1947* (Department of State publication 3016; Apr. 1948), p. 53.

Reservation of Ecuador

The Ambassador of Ecuador, a member of the Investigating Committee of the OAS in the Costa Rica–Nicaragua case, wishes to record the following:

Although he is in accord with what is affirmed in the report of the Committee, he feels it his duty, nevertheless, to state:

1. That the report of the Committee is incomplete inasmuch as it does not contain a precise and orderly summary of the facts and evidence that were duly recorded and confirmed by the Investigating Committee and the Military Observers of the OAS, facts and evidence he knowledge of which belongs, technically and legally, to the governments of the member states of the OAS and to the public opinion of the Hemisphere; facts and evidence that enable the author or authors of the "foreign intervention" that gave rise to the violation of the territorial integrity, sovereignty, and political independence of Costa Rica to be identified. Solidarity and peaceful relations between the peoples of America require complete dissemination of he facts that a Committee of five countries was instructed to investigate.

2. That, although the territorial integrity, sovereignty, and political ndependence of Costa Rica have been preserved, thanks to the timely and appropriate intervention of the OAS, which, on January 14, esolved "To condemn the acts of intervention of which Costa Rica s victim",[1] there are sound reasons of a political and practical nature or consulting with the American governments as to the date and seat of an early Meeting of Ministers of Foreign Affairs that should deal with these, among other, matters:

> *a*) The possibility and desirability of establishing, on a permanent legal basis, an Inter-American Police Force, composed of contingents from various nonbelligerent countries, for the pacific surveillance and observation of the frontiers of any country that may be the victim of intervention or aggression and, if necessary, for repelling the attacks of armed forces that may attempt to carry out an act of intervention or aggression; and
>
> *b*) The improvement of the systems for the control of traffic in arms and ammunition, and also the effective application of the recommendation contained in Resolution xi of the Inter-American Conference for the Maintenance of Continental Peace and Security held in Rio de Janeiro in 1947. The armaments race, which is clearly out of proportion to the requirements of Hemisphere defense, causes justifiable concern and, if it continues in the future, can become an incalculable danger not only to the solidarity and unity of the Hemisphere, but also to the economic and social stability of the peoples of the Hemisphere.

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[1] Resolution adopted after consideration of the reports from the Investigating Committee in Costa Rica; for text, see *Aplicaciones del Tratado Interamericano de Asistencia Reciproca, 1948–1955*, p. 168.

5. THE COSTA RICA-NICARAGUA INCIDENT (1955): Resolution of the Council of the Organization of American States, September 8, 1955[1]

CANCELLATION OF THE CALL FOR A MEETING OF MINISTERS OF FOREIGN AFFAIRS AND TERMINATION OF THE PROVISIONAL ACTIVITIES OF THE COUNCIL AS ORGAN OF CONSULTATION IN CONNECTION WITH THE SITUATION INVOLVING COSTA RICA AND NICARAGUA

The Council received the report of the Special Committee[2] (Doc. C–i–284–English) submitted to the Council of the Organization of American States, Acting Provisionally as Organ of Consultation, pursuant to Resolution III of February 24, 1955, and the decision reached at the meeting held on August 4, 1955[3] and approved the following resolution:

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES, ACTING PROVISIONALLY AS ORGAN OF CONSULTATION,

HAVING SEEN the report of the Special Committee of the Council, Acting Provisionally as Organ of Consultation, presented today,[4]

RESOLVES:

1. To cancel the call for a Meeting of Consultation of Ministers of Foreign Affairs that was made, in accordance with the Inter-American Treaty of Reciprocal Assistance, in the January 11, 1955, resolution[5] of the Council of the Organization; and, consequently, to terminate the provisional activities of the Council as Organ of Consultation.

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[1] PAU doc. C–sa–190; see also *Annals of the Organization of American States*, vol. VII, No. 3 (1955), pp. 233–235.

[2] On Feb. 24, 1955, the Council of the OAS, acting provisionally as Organ of Consultation, considered the report of the Investigating Committee (*supra*), resolved (Res. III, PAU doc. C–sa–175) to discontinue that committee and to create a Special Committee (Uruguay, Argentina, Brazil, Chile, Ecuador, El Salvador, Mexico, Paraguay, and the United States) which would act provisionally as Organ of Consultation to carry out the provisions of Res. II, especially those relating to designation of members of the Commission of Investigation and Conciliation (in accordance with art. XVII of the Pact of Bogotá) by Costa Rica and Nicaragua, and the effectuation of the bilateral agreement specified in art. IV of the Pact of Amity between the two countries.

[3] On Aug. 4, 1955, the Special Committee submitted an oral report to the Council of the OAS; the representatives of Costa Rica and Nicaragua presented additional information; and the Council adopted a resolution requesting a full report from the Special Committee on the bilateral negotiations.

[4] The Spanish text of the report is in *Aplicaciones del Tratado Interamericano . . .*, pp. 202–204. It reviewed the activities of the Special Committee from the beginning, stated that the bilateral negotiations between Costa Rica and Nicaragua were quite advanced, recommended cancellation of the call for a Meeting of Foreign Ministers, and suggested the continuation of the Special Committee to assist with the negotiations.

[5] PAU doc. C–d–338.

2. To retain the Special Committee while the negotiations for the signing of the bilateral agreement provided for in the present Pact of Amity [1] and in Resolution II [2] approved by this Council on February 24, 1955, are in course, so as to enable it to continue to cooperate with the Representatives of Costa Rica and Nicaragua whenever they require such cooperation. The Special Committee shall duly report on this matter to the governments, through the Council of the Organization.[3]

3. To state that it is pleased that the Commission on Investigation and Conciliation has been established by Costa Rica and Nicaragua and to repeat that it is confident the two Parties will utilize the services of the aforesaid Commission, in accordance with the treaties in force between them.

Peaceful Settlements Under the Inter-American Peace Committee

6. SECOND REPORT OF THE INTER-AMERICAN PEACE COMMITTEE, FEBRUARY 3, 1954 (Excerpts)[4]

[a] ESTABLISHMENT AND ORGANIZATION OF THE COMMITTEE.[5]

The Second Meeting of Ministers of Foreign Affairs of the American Republics, which was held in Habana in 1940, recommended to the Governing Board of the Pan American Union "that it organize, in the American capital deemed most suitable for the purpose, a committee composed of representatives of five countries, which shall have the duty of keeping constant vigilance to insure that States between which any dispute exists or may arise, of any nature whatsoever, may solve it as quickly as possible, and of suggesting, without detriment to the methods adopted by the parties or to the procedures which they may agree upon, the measures and steps which may be conducive to a settlement".[1]

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[1] Treaty of Feb. 21, 1949; Pan American Union Law and Treaty Series 30. For events leading up to the signing of the Pact of Amity, see *supra*.

[2] Organization of American States, *Annual Report of the Secretary General for the Fiscal Year July 1, 1954–June 30, 1955*, pp. 7–9.

[3] In a report of Jan. 12, 1956, presented to the Council in the meeting of Jan. 18, 1956 (PAU doc. C–a–202), the Special Committee made its final report, pointing out that on Jan. 9, 1956, two agreements were signed between Costa Rica and Nicaragua, one in compliance of art. IV of the Pact of Amity, and the second on the functioning of the Commission of Investigation and Conciliation. The report was accepted by the Council, and the Special Committee was considered dissolved. (For text of report and agreements, see *ibid.*)

[4] *Second Report of the Inter-American Peace Committee Submitted to the Tenth Inter-American Conference*, Feb. 3, 1954.

[5] *Ibid.*, pp. 4–5.

On December 4, 1940, the Governing Board of the Pan American Union established Washington, D. C., as the seat of the Committee and selected as its members two countries of the north (the United States and Mexico), two of the south (Argentina and Brazil), and one of Central America and the Antilles (Cuba).

On September 23, 1947, the Ambassador of the Dominican Republic sent a note to the Director General of the Pan American Union in which he requested him to take the necessary steps for the installation of the Committee. On July 31, 1948, after such steps had been taken and the Representatives of the five member countries composing the Committee had been appointed, it was installed by the Chairman of the Council of the Organization.

. . . .

The statutes of the Committee (Appendix B)[2] were approved by it on May 24, 1950, and sent to the Governments of the American Republics. Prior to that time, the Committee had been governed by temporary regulations and, until July 6, 1949, it was called "The Inter-American Committee on Methods for the Peaceful Solution of Conflicts".

[b] SITUATION BETWEEN THE DOMINICAN REPUBLIC AND CUBA (1948).[3]

On August 13, 1948, the Inter-American Peace Committee received a special Delegation from the Dominican Republic, which requested the services of the Committee to aid in resolving a situation that had arisen between the Government of that Republic and that of the Republic of Cuba. The Committee immediately informed the Government of Cuba of this request and subsequently held several meetings with and without the Representatives of the Parties concerned.

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[1] Res. XIV; *Second Meeting of the Ministers of Foreign Affairs of the American Republics, Habana, July 21–30, 1940*: *Report of the Secretary of State* (Department of State publication 1575; 1941), p. 71. The Statutes of the Committee, with respect to the competence and procedures of the committee, also state:

". . . 7. The Committee may take action at the request of any American State, when the recourse of direct negotiations has been exhausted, when none of the other customary procedures of diplomacy or of pacific settlement is in process or when existing circumstances render negotiation impracticable. . . . 19. As soon as the Committee has completed the examination of a case submitted for its consideration, it shall suggest the measures or steps conducive in its estimation to amicable settlement of the controversy. 20. If the Parties arrive at an understanding, either with respect to procedure or with respect to the substance for [of] the dispute, the work of the Committee shall be limited to preparation of a record containing a report on the agreement reached, and a copy of this record shall be transmitted to each of the American Governments. 21. In the event that no agreement is reached by the Parties, despite the efforts of the Committee, a record shall be drawn up containing an account of the activities and work of the Committee, and also of the suggestions made by it in accordance with Article 19. Copies of this document shall be delivered to the Parties, and transmitted to the other American Governments. . . ." (*Second Report* . . ., pp. 20 and 22).

[2] Not reprinted here.

[3] *Second Report* . . ., pp. 5–6.

At a meeting held on September 9, 1948, the Representatives of both Governments agreed that direct negotiation was the most suitable method for solving the problem that had arisen. This is recorded in the document that was signed on that date by the Representatives of the Governments concerned and the members of the Committee (Appendix C).[1]

[c] SITUATION BETWEEN HAITI AND THE DOMINICAN REPUBLIC (1949).[2]

On March 24, 1949, the Committee met to take cognizance of a note addressed to it by a special Delegation of the Government of Haiti, informing it of a situation of conflict between that Government and the Dominican Republic and requesting the services of the Committee to aid in its solution. The Committee notified the Government of the Dominican Republic of this request. After several meetings with the Representatives of the interested Parties, the Committee decided, with the consent of both Governments, to send a Delegation to the Dominican Republic and Haiti. The Delegation, composed of Ambassadors Enrique V. Corominas, Paul C. Daniels, and Luis Quintanilla, the Representatives of Argentina, the United States, and Mexico, respectively, left for Port-au-Prince on Sunday, May 29, and remained there until Wednesday, June 1. On that day the Delegation went to Ciudad Trujillo, where it remained until the following Saturday. In each of these capitals the Delegation interviewed the President of the Republic, the Minister of Foreign Affairs, and other high government officials.

On June 6, after returning to Washington, the Delegation informed the Committee of the steps it had taken and gave the Committee the text of a Joint Declaration, which had been approved by the Ministries of Foreign Affairs of Haiti and the Dominican Republic.

On June 9, 1949, the Committee held a public meeting at the Pan American Union which was attended by the Representatives of the interested Parties. The minutes of this meeting were prepared in Spanish and French and signed by the Representatives of Haiti and the Dominican Republic and the members of the Committee (Appendix D).[3]

The Declaration, which was made public by the Foreign Ministries of both countries in their respective capitals on June 10, appears in the minutes of the above mentioned meeting.

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[1] Summary Minutes of the Meeting of Sept. 9, 1948; not reprinted here.

[2] *Second Report* . . ., pp. 6–7. The Council of the OAS considered this situation from Feb. 16–25, 1949, at Haiti's request, but declined to convoke the Organ of Consultation. However, the Council again considered this situation on Jan. 6, 1950, and invoked the Organ of Consultation (see *supra*, doc. 3).

[3] Not reprinted here.

[d] SITUATION BETWEEN CUBA AND PERU (1949).[1]

On August 3, 1949, the Government of Cuba, through its Ambassador Gonzalo Güell, requested the good offices of the Committee in finding a solution to the differences existing between his Government and the Government of Peru, because the Cuban Embassy in Lima had granted asylum on December 29, 1948, to the Peruvian citizens Dr. Fernando Leon de Vivero and Mr. Pedro Muniz. It was not necessary for the Committee to take any action, however, as the Government of Cuba informed the Committee on August 17 that these asylees had left the Cuban Embassy on the 14th of the month.

[e] SITUATION IN THE CARIBBEAN (1949).[2]

The Inter-American Peace Committee met in Washington on August 3, 1949, at the request of Ambassador Paul C. Daniels, the Representative of the United States, to consider the situation existing in the political areas of the Caribbean. In the absence of Ambassador Quintanilla, the Chairman of the Committee, Ambassador Enrique Corominas, the Representative of Argentina, served as Acting Chairman.

As a result of the deliberations of that meeting, the Committee sent a note to the Representatives on the Council of the Organization, in which they were informed of the situation that had arisen and requested to furnish any information and suggestions that their respective Governments wished to offer for the better understanding of the situation.

The other meetings of the Committee were presided over by Ambassador Luis Quintanilla.

The Governments of Costa Rica, Cuba, the Dominican Republic, Guatemala, Haiti, Nicaragua, the United States and Venezuela sent observations and information to the Committee. The information that the Government of the Dominican Republic sent was presented to the Committee by a special Delegation.

After careful study of the problem and the information received, the Committee formulated a series of [14] conclusions that were approved at a public meeting held at the Pan American Union on September 14, 1949 (Appendix E).[3]

. . . .

On April 8, 1950, the Council of the Organization of American States, acting provisionally as Organ of Consultation, passed a resolution supporting the Conclusions of the Committee in the following terms:

> " . . . to support the conclusions of the Inter-American Peace Committee, approved on September 14, 1949, relative to the situation existing in the

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[1] *Second Report* . . ., p. 7.

[2] *Ibid.*, pp. 7–9.

[3] Not reprinted here.

Caribbean area, with the understanding that the said conclusions are applicable not merely to the aforesaid situation, but to all American States without exception."[1]

[f] INVITATION OF THE GOVERNMENT OF CUBA (1949).[2]

On December 6, 1949, the Cuban Ambassador to the Organization sent a note to the Chairman of the Committee, in which he stated that the Government of Cuba "would be pleased to receive a visit from the Committee . . . so that it can determine for itself that there are no movements or preparations on Cuban territory" intended for the purpose of launching an aggression against the Dominican regime, as was alleged in news reports emanating from official agencies of the Dominican Republic. After considering all the factors in the case, the Committee decided not to take advantage of the suggestion of the Cuban Government that it go to the place where it was alleged that the incidents had occurred (Appendix F).[3]

[g] NOTE TO THE GOVERNMENT OF THE DOMINICAN REPUBLIC (1949).[4]

In December 1949 serious concern was expressed in the Committee with respect to the granting of special powers for the declaration of war requested by the President of the Dominican Republic and later authorized by its national Congress. Through its Representative on the Council of the Organization of American States, the Dominican Republic was informed that this concern had been expressed (Appendix G).[5]

[h] SITUATION BETWEEN CUBA AND THE DOMINICAN REPUBLIC (1951).[6]

On November 26, 1951, the Government of Cuba requested the services of the Committee to aid in the solution of a problem that had arisen in connection with the seizure, by authorities of the latter Government, of five Cuban sailors of the vessel "Quetzal". With Ambassador Luis Quintanilla, the Representative of Mexico, serving as Acting Chairman, the Committee met to study the note received from the Cuban Government, and it informed the Government of the Dominican Republic of the aforesaid request. In a note dated December 7, the Dominican Government, on its part, requested the Committee to suggest a method for settling the controversy mentioned in the minutes of the September 9, 1948 meeting of the Inter-American Peace Committee[7] and Resolution II (5) approved on April 8, 1950, by the Council of the Organization of American States acting provisionally as Organ of Consultation.[8] The Foreign Ministers of both

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[1] For the texts of the Apr. 8, 1950, Resolutions of the Council, see *supra*, doc. 3.

[2] *Second Report* . . ., pp. 9–10.

[3] Not reprinted here.

[4] *Second Report* . . ., p. 10.

[5] Not reprinted here.

[6] *Second Report* . . ., pp. 10–11.

[7] For text of minutes, see *ibid.*, Appendix C, pp. 24–26.

[8] For text of the resolutions, see *supra*, doc. 3.

Governments, accompanied by high diplomatic officials, attended the meetings that the Committee held in Washington to study the problems that had arisen. The Committee terminated its activities on the night of December 25, 1951 with the signing of the Declaration that appears in the minutes of the Committee meeting of that date (Appendix H).[1]

[i] SITUATION BETWEEN COLOMBIA AND PERU (1953–1954).[2]

On November 18, 1953, His Excellency Evaristo Sourdis, Minister of Foreign Affairs of Colombia, presented to the Inter-American Peace Committee a note, dated November 17, in which his Government requested the services of the Committee in finding a procedure that would be conducive to the settlement of a dispute existing between the Republics of Colombia and Peru by reason of the asylum of Mr. Victor Raul Haya de la Torre in the Embassy of Colombia in Lima. The Government of Colombia accredited a special Delegation to represent it before the Committee.

The Inter-American Peace Committee immediately sent the Government of Peru a copy of the Note of the Government of Colombia and offered its good services to aid in settling the dispute.

The Government of Peru declined the offer of the Committee and invoked its Reservation to Resolution XIV of the Second Meeting of Consultation of Ministers of Foreign Affairs—according to which "the Committee shall function only at the request of the interested Parties"—and Article 7 of the Statutes of the Committee.[3]

After a thorough study of the case, the Committee unanimously approved the Conclusions that are appended to this Report (Appendix I).[4]

On the same date, January 21, the Committee officially informed the Government of Colombia of the aforesaid Conclusions with regard to the latter's note of November 17, 1953, to the Committee and also called them to the attention of the Government of Peru.

. . . .

The Committee is hopeful that, as a result of the bilateral negotiations it has suggested, the interested Parties will be able to reach a practical and satisfactory settlement. This Report will therefore have to be completed at a later date.[5]

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[1] Not reprinted here.

[2] *Second Report* . . ., pp. 11–12.

[3] For texts of the resolutions and statutes, see *ibid.*, Appendices A and B, pp. 18–23.

[4] Not reprinted here.

[5] As a result of subsequent bilateral negotiations between the two governments, Haya de la Torre was "expelled" from Peru on Apr. 6, 1954.

7. REPORT OF THE INTER-AMERICAN PEACE COMMITTEE ON THE CONTROVERSY BETWEEN GUATEMALA, HONDURAS, AND NICARAGUA, JULY 8, 1954 (Excerpts)[1]

. . . .

This chronological and strictly objective report of the activities of the Committee in the period during which . . . the controversy between Guatemala, Honduras, and Nicaragua was submitted to it, makes it possible to reach the following conclusions:

(1) Although Guatemala after submitting its case to the Inter-American Peace Committee,[2] suspended and then withdrew it,[3] the original Note from the Government of Guatemala gave rise to the subsequent requests from Honduras and Nicaragua.[4]

(2) When, a week after having sought the help of the Committee, Guatemala permitted the latter to carry out its trip,[5] and when, as a result of this, the Committee was able to start on its trip on June 29,[6]

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[1] *Report of the Inter-American Peace Committee on the Controversy Between Guatemala, Honduras, and Nicaragua* (PAU doc. CIP-131/54, July 8, 1954), pp. 15–16. The texts of the communications referred to are reproduced as appendices to the report.

[2] Note of June 19, 1954, which claimed ". . . violations both of the principle of non-intervention and of the sovereignty of Guatemala . . ." (*Report of the Inter-American Peace Committee* . . ., p. 1), and accused Honduras and Nicaragua of aggression.

[3] Guatemala requested the Peace Committee to suspend all action on June 20, and withdrew the case on June 21, 1954. Guatemala had also requested action by the Security Council on June 19 under articles 34, 35 and 39 of the U.N. Charter. In the Security Council meeting on June 20, 1954, a resolution to refer the case back to the OAS (U.N. doc. S/3236) was vetoed by the Soviet Union; instead a resolution making an appeal for the immediate cessation of any action which could lead to bloodshed and calling upon the members of the United Nations to abstain from giving aid to such action was unanimously adopted (U.N. doc. S/3237). Later, Honduras and Nicaragua opposed consideration of the case by the Security Council, preferring action by the regional organization first, and the Peace Committee informed the Security Council of the committee's activities in the case, stating that it needed only Guatemala's consent for an immediate departure of a fact-finding commission. At the insistence of Guatemala and the Soviet Union, a meeting of the Security Council was held on June 25; however, the proposed agenda (consideration of the Guatemalan case) was rejected (5 votes to 4, 2 abstentions), thus postponing consideration of the case (and thereby affirming the majority view of the Council that the Peace Committee should investigate and report).

[4] Notes of June 22 and 23, 1954, respectively. The Ambassadors of both countries appeared before the Peace Committee on June 23, during which meeting they proposed that a Subcommittee of Information of the Peace Committee be formed to visit all three countries and obtain the facts.

[5] The Security Council postponed consideration of the Guatemalan situation on June 25, 1954, to await the Peace Committee's report, and Guatemala reaccepted the good offices of the Peace Committee on June 26.

[6] With the changes of government in Guatemala from June 27 through June 29, 1954, the Peace Committee, in accordance with its procedures, was forced each time to obtain assurances from the new government that the committee would be allowed the proper facilities for operation before the trip began.

it was forced to interrupt it in Mexico City because at that time the new authorities in Guatemala did not consider it opportune.[1]

(3) Before the Committee left Mexico City to return to Washington, the three interested parties recognized, as is indicated in its final declaration,[2] that the controversy because of which the Committee had departed for Guatemala, Honduras, and Nicaragua, had ceased to exist.[3] Subsequently, the three Governments concerned confirmed this by telegram to the Committee.

. . . .

The Foundations of Common Defense Against International Communism and Aggression

8. THE UNITY OF THE AMERICAN REPUBLICS: Final Act of the Fourth Meeting of Consultation of Ministers of Foreign Affairs of American States, April 7, 1951 (Excerpts)[4]

I. DECLARATION OF WASHINGTON

WHEREAS:

The present Meeting was called because of the need for prompt action by the Republics of this Hemisphere for common defense against the aggressive activities of international communism;

Such activities, in disregard of the principle of non-intervention, which is deeply rooted in the Americas, disturb the tranquility of the peoples of this Continent and endanger the liberty and democracy on which their institutions are founded;

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[1] 9 a.m., June 29, 1954—the Peace Committee was assured of the Guatemalan Government's cooperation; upon arrival in Mexico City at 10 p.m. the same day, the committee learned that the Guatemalan decision had been changed. At a special closed meeting of the Council of the OAS held on June 29, 1954, representatives of the United States and of El Salvador informed the Council that their Ambassadors in Guatemala had been approached with a request that the good offices of the United States and El Salvador be lent to help bring about a cessation of the fighting. The representatives told the Council that their governments were willing to do so, and that they were informing the Council before taking any definite action (PAU doc. C–sa–154). On June 30, the Peace Committee received a message from the Guatemalan Government which requested that the committee refrain from intervening, and stating that mediation had been initiated between the government forces and those of Colonel Castillo Armas by the Republic of El Salvador, the U. S. Government, and the Papal Nuncio to El Salvador.

[2] Bulletin issued to the press the night of July 2, 1954.

[3] The Pact of San Salvador, signed July 2, 1954, established a new "Junta" Government for Guatemala, incorporating representatives of both the "Liberation" forces under Colonel Castillo Armas and the Guatemalan "Junta" Government in authority at the time, headed by Colonel Monzón.

[4] *Fourth Meeting of Consultation of Ministers of Foreign Affairs of American States, Washington, D.C., March 26–April 7, 1951: Report of the Secretary of State* (Department of State publication 4928; 1953), pp. 67–75.

All the said Republics have stated, in solemn acts and agreements, their will to cooperate against any threat to or aggression against the peace, security, and territorial integrity or independence of any one of them;

It will be impossible for such cooperation to be effective unless it is carried out in a true spirit of harmony and conciliation;

In view of the common danger, the present moment is deemed propitious for a reaffirmation of inter-American solidarity;

That danger is aggravated by certain social and economic factors;

In this last connection the need for the adoption of measures designed to improve the living conditions of the peoples of this Continent is now greater than ever; and,

Nevertheless, in any action for the defense of the Continent and its institutions, the essential rights of man, solemnly proclaimed by the American Republics, should not be lost sight of,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

DECLARES:

1. The firm determination of the American Republics to remain steadfastly united, both spiritually and materially, in the present emergency or in the face of any aggression or threat against any one of them.

2. Once more the faith of the American Republics in the efficacy of the principles set forth in the Charter of the Organization of American States [1] and other inter-American agreements to maintain peace and security in the Hemisphere, defend themselves against any aggression, settle their disputes by peaceful means, improve the living conditions of their peoples, promote their cultural and economic progress, and ensure respect for the fundamental freedoms of man and the principles of social justice as the bases of their democratic system.

3. Its conviction that the strengthening of the action of the United Nations is the most effective way to maintain the peace, security, and well-being of the peoples of the world under the rule of law, justice, and international cooperation.

II. PREPARATION FOR THE DEFENSE OF THE AMERICAN REPUBLICS AND SUPPORT OF THE ACTION OF THE UNITED NATIONS

WHEREAS:

The American Republics, as Members of the United Nations, have pledged themselves to unite their efforts with those of other States to maintain international peace and security, to settle international disputes by peaceful means, and to take effective collective measures for the prevention and suppression of acts of aggression;

International peace and security have been breached by the acts of aggression in Korea, and the United Nations, despite its efforts to find a peaceful solution, was obliged, pursuant to resolutions of the Security Council and the General Assembly, to take action to restore peace in that area; and

In order to ensure that the United Nations has at its disposal means for maintaining international peace and security, the General Assembly, on November 3, 1950, adopted the Resolution entitled "Uniting for Peace",[1]

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[1] *A Decade of American Foreign Policy*, pp. 427–445.

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

DECLARES:

That the present world situation requires positive support by the American Republics for: (1) achievement of the collective defense of the Continent through the Organization of American States, and (2) cooperation, within the United Nations organization, to prevent and suppress aggression in other parts of the world; and

RECOMMENDS:

1. That each of the American Republics immediately examine its resources and determine what steps it can take to contribute to the defense of the Continent and to United Nations collective security efforts, in order to accomplish the aims and purposes of the "Uniting for Peace" Resolution of the General Assembly.

2. That each of the American Republics, without prejudice to meeting the requirements of national self-defense, give particular attention to the development and maintenance of elements within its national armed forces trained, organized, and equipped so that, in accordance with its constitutional norms and to the full extent that, in its judgment, its capabilities permit, they may be promptly available, (1) for the defense of the Continent, and (2) for service as United Nations unit or units, in accordance with the "Uniting for Peace" Resolution.

III. INTER-AMERICAN MILITARY COOPERATION

WHEREAS:

The military defense of the Continent is essential to the stability of its democratic institutions and to the well-being of its peoples;

The American Republics have assumed obligations under the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance [2] to assist any American States subjected to an armed attack, and to act together for the common defense and for the maintenance of the peace and security of the Continent;

The expansionist activities of international communism require the immediate adoption of measures to safeguard the peace and the security of the Continent;

The present grave international situation imposes on the American Republics the need to develop their military capabilities in order, in conformity with the Inter-American Treaty of Reciprocal Assistance: (1) to assure their individual and collective self-defense against armed attacks; (2) to contribute effectively to action by the Organization of American States against aggression directed against any of them; and (3) to make provision, as quickly as possible, for the collective defense of the Continent; and

The Ninth International Conference of American States, in its

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[1] Res. 377 (V); *supra*, pp. 187–192.

[2] *Supra*, pp. 789–796.

Resolution XXXIV,[1] entrusted the preparation for collective self-defense against aggression to the Inter-American Defense Board,[2] which, as the only inter-American technical-military organ functioning, is the suitable organ for the preparation of military plans for collective self-defense against aggression,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

RESOLVES:

1. To recommend to the American Republics that they orient their military preparation in such a way that, through self-help and mutual aid, and in accordance with their capabilities and with their constitutional precepts, and in conformity with the Inter-American Treaty of Reciprocal Assistance, they can, without prejudice to their individual self-defense and their internal security: (a) increase those of their resources and strengthen those of their armed forces best adapted to the collective defense, and maintain those armed forces in such status that they can be promptly available for the defense of the Continent; and (b) cooperate with each other, in military matters, in order to develop the collective strength of the Continent necessary to combat aggression against any of them.

2. To charge the Inter-American Defense Board with preparing, as vigorously as possible, and keeping up to date, in close liaison with the Governments through their respective Delegations, the military planning of the common defense.

3. That the plans formulated by the Inter-American Defense Board shall be submitted to the Governments for their consideration and decision. To the end of facilitating such consideration and decision, the Delegations of the American Republics to the Inter-American Defense Board shall be in continuous consultation with their governments on the projects, plans, and recommendations of the Board.

4. To recommend to the Governments of the American Republics: (a) that they maintain adequate and continuous representation of their armed forces on the Council of Delegates, on the Staff of the Inter-American Defense Board, and on any other organ of the Board that may be established in the future; (b) that they actively support the work of the Board, and consider promptly all the projects, plans, and recommendations of that agency; and (c) that they cooperate in the organization, within the Board, of a coordinated system of exchange of appropriate information.

IV. IMPORTANCE OF MAINTAINING PEACEFUL RELATIONS AMONG AMERICAN STATES

WHEREAS:

It is desirable that the energies of each American Republic be devoted to strengthening its ability to contribute to international peace and security in the American Continent and to the prevention and suppression of international communist aggression; and

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[1] Resolution of May 2, 1948; *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948* (Department of State publication 3263; 1948), pp. 270–271.

[2] Created in 1942 under Res. XXXIX; *Report on the Third Meeting of the Ministers of Foreign Affairs of the American Republics, Rio de Janeiro, January 15–28, 1942* (Pan American Union, 1942), p. 59.

Any breach of friendly relations among the American Republics can only serve to provide aid and comfort to the leaders of such aggression as well as to weaken the peace and security of the Western Hemisphere,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

REAFFIRMS:

The solemn obligations undertaken by all the American Republics to refrain in their international relations from the threat or use of force in any manner inconsistent with the Charter of the United Nations or the Inter-American Treaty of Reciprocal Assistance, and to settle their international disputes by peaceful means;

RECOMMENDS:

That the American Republics make every effort to settle in the shortest possible time, by direct bilateral negotiations, any differences which threaten their friendly relations, and that they promptly submit to other available procedures of peaceful settlement such differences as they may be unable to adjust by negotiation; and

DECLARES:

That the faithful observance by the American Republics of their commitments not to intervene in the internal or external affairs of other States and to settle any disputes among them by peaceful means makes it possible for each of the Republics to concentrate the development of its capabilities upon the tasks best adapted to the role each is best qualified to assume in the collective defense against aggression.

. . . .

VII. THE STRENGTHENING AND EFFECTIVE EXERCISE OF DEMOCRACY

WHEREAS:

Topic II of the program of the Meeting is "Strengthening of the internal security of the American Republics", and, for the achievement of that purpose and the application of the proper measures, it is essential that each government, as the mandatory of its people, have their confidence and support;

In order to achieve such identification of the people with their government, it is imperative that each country have an effective system of representative democracy that will put into practice both the rights and duties of man and social justice; and

The American Republics had their origin and reason for being in the desire to attain liberty and democracy, and their harmonious association is based primarily on these concepts, the effectiveness of which it is desirable to strengthen in the international field, without prejudice to the principle of non-intervention,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

DECLARES:

That the solidarity of the American Republics requires the effective exercise of representative democracy, social justice, and respect for and observance of the rights and duties of man, principles which must e increasingly strengthened in the international field and which are contained in Article 5 (d) of the Charter of the Organization of American States [1] and in Resolutions XXXII (The Preservation and Defense of Democracy in America) [2] and XXX (American Declaration of the Rights and Duties of Man) [3] adopted by the Ninth International Conference of American States; and

RESOLVES:

1. To suggest that the Tenth Inter-American Conference consider, within the framework of Articles 13 and 15 of the Charter of the Organization of American States, the measures necessary in order that the purposes stated in Resolutions XXX and XXXII of the Ninth nternational Conference of American States may acquire full effect in all the countries of America.

2. To assign to the Inter-American Council of Jurists [4] the task of drawing up, as a technical contribution to the objectives indicated n the preceding paragraph, drafts of conventions and other instruments; and, to that end, also to assign to the Inter-American Juridical Committee the task of undertaking the pertinent preliminary studies, which it shall submit to the said Council at its next meeting.

3. To urge the Governments of America, pending the adoption and entry into force of the above-mentioned measures, to maintain and apply, in accordance with their constitutional procedures, the precepts contained in the said Resolutions XXX and XXXII of the Ninth International Conference of American States.

VIII. STRENGTHENING OF INTERNAL SECURITY

WHEREAS:

The American Republics, at the Ninth International Conference of American States, with specific reference to "the preservation and defense of democracy in America" and having considered Resolution VI of the Second Meeting of Consultation,[5] resolved to condemn the methods of every system tending to suppress political and civil rights nd liberties, and in particular the action of international communism or any other totalitarianism, and consequently, to adopt, within their respective territories and in accordance with their respective constitutional provisions, the measures necessary to eradicate and prevent activities directed, assisted, or instigated by foreign governments, organizations, or individuals tending to overthrow their institutions by violence, to foment disorder in their domestic political life, or to disturb, by means of pressure, subversive propaganda, threats or by any other means, the free and sovereign right of their peoples to govern themselves in accordance with their democratic aspirations;

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[1] *A Decade of American Foreign Policy*, pp. 427–445.

[2] Resolution of May 2, 1948; *Ninth International Conference of American States . . .*, pp. 266–267.

[3] Resolution of May 2, 1948; *ibid.*, pp. 260–266.

[4] Provided in articles 67–72, Charter of the Organization of American States; *A Decade of American Foreign Policy*, pp. 438–439.

[5] Resolution of July 30, 1940; *Second Meeting of the Ministers of Foreign Affairs of the American Republics, Habana, July 21–30, 1940: Report of the Secretary of State* (Department of State publication 1575; 1941), pp. 64–65.

To supplement those measures of mutual cooperation which assure collective defense as well as the economic and social well-being of the people, upon which the vitality of political institutions depends in such a high degree, it is necessary to adopt laws and regulations for internal security;

In their concern to combat the subversive action of international communism, they are deeply conscious of their desire to reaffirm their determination to preserve and strengthen the basic democratic institutions of the peoples of the American Republics, which the agents of international communism are attempting to abolish, utilizing for this purpose the exploitation and the abuse of these selfsame democratic liberties;

Within each one of the American Republics there has been and is being developed through democratic procedures a body of measures designed to assure its political defense;

It is in accordance with the high common and individual interests of the American Republics to assure that each of them may be able to meet the special and immediate threat of the subversive action of international communism; and

Since the said subversive action recognizes no boundaries, the present situation requires, in addition to adequate internal measures, a high degree of international cooperation among the American Republics, looking to the eradication of any threat of subversive activity which may endanger democracy and the free way of life in the American Republics,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

RESOLVES:

1. To recommend to the Governments of the American States:

(a) That, mindful of their unity of purpose and taking account of the contents of Resolution VI of the Second Meeting of Consultation in Habana[1] and Resolution XXXII of the Ninth International Conference of American States in Bogotá,[2] each American Republic examine its respective laws and regulations and adopt such changes as it may consider necessary to assure that the subversive activities of the agents of international communism, directed against any of them, may be adequately prevented and punished;

(b) That, in accordance with their respective constitutional provisions, they enact measures necessary to regulate in the countries of America transit across international boundaries of those foreigners who there is reason to expect will attempt to carry out subversive acts against the defense of the American Continent; and

(c) That, in the application of this Resolution, they bear in mind the necessity of guaranteeing and defending by the most efficacious means the rights of the human person as well as their firm determination to preserve and defend the basic democratic institutions of the peoples of the American Republics.

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[1] *Ibid.*, pp. 64–65.

[2] *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948* (Department of State publication 3263; 1948), pp. 266–267.

2. To request the Pan American Union, for the purpose of facilitating the fulfillment of the objectives of this Resolution, to assign to the appropriate Department, such as the Department of International Law and Organization, with the assistance, if deemed desirable, of experts on the subject, the following duties:

(a) To make technical studies concerning the definition, prevention, and punishment, as crimes, of sabotage and espionage with respect to acts against the American Republics and directed from abroad or against the defense of the Americas;

(b) To make technical studies of general measures by means of which the American Republics may better maintain the integrity and efficacy of the rights of the human person and of the democratic system of their institutions, protecting and defending them from treason and any other subversive acts instigated or directed by foreign powers or against the defense of the Americas;

(c) To make technical studies concerning measures to prevent the abuse of freedom of transit, within the Hemisphere, including clandestine and illicit travel and the misuse of travel documents, designed to weaken the defense of the Americas.

The Pan American Union shall transmit the reports and conclusions resulting from its studies to the American Governments for their information, through their Representatives on the Council of the Organization of American States, and should any of the said governments so request and the Council by a simple majority of votes so decide, a specialized conference on the matter shall be called pursuant to the terms of Article 93 of the Charter of the Organization of American States.

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9. STRENGTHENING DEMOCRATIC INSTITUTIONS: The Declaration of Caracas, Adopted by the Tenth Inter-American Conference, March 28, 1954[1]

The Tenth Inter-American Conference

Reaffirms:

The fundamental principles and aims of the Charter of the Organization of American States,[2] the American Declaration of the Rights and Duties of Man,[3] the Universal Declaration of Human Rights,[4] and the resolutions of the Organization that refer to those principles and aims;

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[1] Res. XCV; *Tenth Inter-American Conference, Caracas, Venezuela, March 1–28, 1954* (Department of State publication 5692; 1955), pp. 158–159.

[2] *A Decade of American Foreign Policy*, pp. 427–445.

[3] Res. XXX; *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948* (Department of State publication 3263; 1948), pp. 260–266.

[4] Declaration approved by the U.N. General Assembly Dec. 10, 1948; *A Decade of American Foreign Policy*, pp. 1156–1159.

Reiterates:

Recognition of the inalienable right of each American State to choose freely its own institutions in the effective exercise of representative democracy, as a means of preserving its political sovereignty, achieving its economic independence, and living its own social and cultural life, without intervention on the part of any state or group of states, either directly or indirectly, in its domestic or external affairs, and, particularly, without the intrusion of any form of totalitarianism;

Renews:

The conviction of the American States that one of the most effective means of strengthening their democratic institutions is to increase respect for the individual and social rights of man, without any discrimination, and to maintain and promote an effective policy of economic well-being and social justice to raise the standard of living of their peoples;

Resolves:

To unite the efforts of all the American States to apply, develop, and perfect the above-mentioned principles, so that they will form the basis of firm and solidary action designed to attain, within a short time, the effective realization of the representative democratic system, the rule of social justice and security, and the economic and cultural cooperation essential to the mutual well-being and prosperity of the peoples of the Continent; and

Declares:

That this resolution shall be known as the "Declaration of Caracas".

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10. MEETING THE THREAT TO PEACE AND SECURITY: Declaration of Solidarity for the Preservation of the Political Integrity of the American States Against International Communist Intervention, Adopted by the Tenth Inter-American Conference, March 28, 1954[1]

WHEREAS:

The American republics at the Ninth International Conference of American States[2] declared that international communism, by its antidemocratic nature and its interventionist tendency, is incompatible with the concept of American freedom, and resolved to adopt within their respective territories the measures necessary to eradicate and prevent subversive activities;

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[1] Res. XCIII; *Tenth Inter-American Conference, Caracas, Venezuela, March 1–28, 1954* (Department of State publication 5692; 1955), pp. 156–157.

[2] See Res. XXXII; *Ninth International Conference of American States, Bogotá, Colombia, March 30–May 2, 1948* (Department of State publication 3263; 1948), pp. 266–267.

The Fourth Meeting of Consultation of Ministers of Foreign Affairs recognized that, in addition to adequate internal measures in each state, a high degree of international cooperation is required to eradicate the danger which the subversive activities of international communism pose for the American States;[1] and

The aggressive character of the international communist movement continues to constitute, in the context of world affairs, a special and immediate threat to the national institutions and the peace and security of the American States, and to the right of each state to develop its cultural, political, and economic life freely and naturally without intervention in its internal or external affairs by other states,

The Tenth Inter-American Conference

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Condemns:

The activities of the international communist movement as constituting intervention in American affairs;

Expresses:

The determination of the American States to take the necessary measures to protect their political independence against the intervention of international communism, acting in the interests of an alien despotism;

Reiterates:

The faith of the peoples of America in the effective exercise of representative democracy as the best means to promote their social and political progress; and

Declares:

That the domination or control of the political institutions of any American State by the international communist movement, extending to this Hemisphere the political system of an extracontinental power, would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America, and would call for a Meeting of Consultation to consider the adoption of appropriate action in accordance with existing treaties.

II

Recommends:

That, without prejudice to such other measures as they may consider desirable, special attention be given by each of the American governments to the following steps for the purpose of counteracting the subversive activities of the international communist movement within their respective jurisdictions:

1. Measures to require disclosure of the identity, activities, and sources of funds of those who are spreading propaganda of the

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[1] *Supra*, doc. 8.

international communist movement or who travel in the interests of that movement, and of those who act as its agents or in its behalf; and

2. The exchange of information among governments to assist in fulfilling the purpose of the resolutions adopted by the Inter-American Conferences and Meetings of Ministers of Foreign Affairs regarding international communism.

III

This declaration of foreign policy made by the American republics in relation to dangers originating outside this Hemisphere is designed to protect and not to impair the inalienable right of each American State freely to choose its own form of government and economic system and to live its own social and cultural life.

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11. REAFFIRMATION OF SUPPORT OF THE CARACAS DECLARATION OF SOLIDARITY: Senate Concurrent Resolution 91 (83d Congress, 2d Session), June 29, 1954 [1]

WHEREAS for many years it has been the joint policy of the United States and the other States in the Western Hemisphere to act vigorously to prevent external interference in the affairs of the nations of the Western Hemisphere; and

WHEREAS in the recent past there has come to light strong evidence of intervention by the international Communist movement in the State of Guatemala, whereby government institutions have been infiltrated by Communist agents, weapons of war have been secretly shipped into that country, and the pattern of Communist conquest has become manifest; and

WHEREAS on Sunday, June 20, 1954, the Soviet Government vetoed in the United Nations Security Council a resolution to refer the matter of the recent outbreak of hostilities in Guatemala to the Organization of American States:[2] Therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States should reaffirm its support of the Caracas Declaration of Solidarity of March 28, 1954,[3] which is designed to prevent interference in Western Hemisphere affairs by the international Communist movement, and take all necessary and proper steps to support the Organization of American States in taking appropriate action to prevent any interference by the international Communist movement in the affairs of the States of the Western Hemisphere.

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[1] 68 Stat., pt. 2, B51; see also Department of State *Bulletin*, July 5, 1954, pp. 26–32.

[2] U. N. doc. S/3236.

[3] *Supra.*

[BILATERAL MILITARY ASSISTANCE AGREEMENTS BETWEEN THE UNITED STATES OF AMERICA AND OTHER AMERICAN REPUBLICS, 1952–1955][1]

The Guatemalan Situation: An Example of International Communist Intervention in the American Republics

12. THE GUATEMALAN COMMUNIST PARTY: An Analysis by the Department of State, May 1954 (Summary)[2]

The *Partido Guatemalteco del Trabajo* (The Guatemalan Labor Party—PGT), a Communist party modeled on and guided by the Soviet Communist Party, is the most influential single political organization in present-day Guatemala. Its influence on Guatemalan political life is probably greater than that exercised in any other Latin American country by any local Communist party. The characteristics of its growth and successes provide perhaps the most revealing insight into the adaptation of international Communist strategy to the Latin American environment.

The PGT is a party of young *ladino* [3] "intellectuals," of the lower middle class. Its founders and present leaders are young schoolteachers, ex-university students, journalists, white collar workers and former employees of United States and foreign enterprises in Guatemala. This was the sector of society most frustrated under the archaic social structure of Guatemala, a small Central American State of some 3,000,000 inhabitants which until after World War II remained a backward dictator-ridden agricultural country where 2 percent of the landholdings covered 70 percent of the arable land, and over half the population consisted of illiterate Indians living apart from the main currents of twentieth century life.

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[1] These agreements were negotiated under the Mutual Security Acts of 1951 and 1954; *infra*, pp. 3059–3086 and 3105–3140, respectively. Agreements have been signed with Brazil (TIAS 2776; 4 UST 170); Chile (TIAS 2703; 3 UST, pt. 4, p. 5123); Colombia (TIAS 2496; 3 UST, pt. 3, p. 3690); Cuba (TIAS 2467; 3 UST, pt. 2, p. 2901); the Dominican Republic (TIAS 2777; 4 UST 184); Ecuador (TIAS 2560; 3 UST, pt. 3, p. 4162); Guatemala (TIAS 3283; 6 UST, pt. 2, p. 2107); Haiti (TIAS 3386; 6 UST, pt. 3, p. 3847); Honduras (TIAS 2975; 5 UST 843); Nicaragua (TIAS 2940; 5 UST 453); Peru (TIAS 2466; 3 UST, pt. 3, p. 2890); and Uruguay (TIAS 2778; 4 UST 197). Military Mission Agreements have also been signed with all of the other American Republics with the exception of the Dominican Republic and Mexico.

[2] *Intervention of International Communism in Guatemala* (Department of State publication 5556; 1954), pp. 35–40.

[3] A *ladino* in Guatemala is a person who has adopted European cultural standards (e. g., Western dress) and may be racially a pure Indian as well as a person of mixed blood. [Footnote in original.]

In the intellectually fermenting years of the 1930's and of World War II, many of these intellectuals became attracted to nationalism and Marxism as offering a way out for Guatemala.

The mold of the Guatemalan Communist movement was the 1944 revolution and the 1945–51 administration of President Juan José Arévalo, a self-proclaimed "spiritual socialist" schoolteacher. The revolution, which overthrew the last vestiges of the 13-year regime of Gen. Jorge Ubico, originally had the support of all of the middle classes but its leading element was the lower middle class intellectual group which sought to apply their nationalist and Marxist theories to bring about Guatemala's social transformation. Conscious of inexperience, they relied heavily for direction in labor and political organization on foreigners and Guatemalan exiles who had been involved in Communist activities in Latin America and who flocked to Guatemala after the 1944 revolution, largely unnoticed by the outside world. These Communist personalities, including such figures as Alfonso Solórzano, a Guatemalan labor lawyer closely associated with Vicente Lombardo Toledano in Mexico, and Miguel Marmol, a Salvadoran labor organizer, educated a younger generation of native Guatemalan "intellectuals" in Communist doctrine by such devices as establishing an indoctrination school in the new National Labor Federation, disseminating Communist propaganda in the administration's "revolutionary" political parties and establishing Marxist "study groups."

Guatemala's postwar Communist party crystallized as a clandestine organization hidden within the Guatemalan "revolutionary" parties and labor unions supporting the Arévalo administration. According to its present leaders, it was first successfully founded on September 28, 1947, under the name of the *Vanguardia Democrática* as the precursor of the Guatemalan Communist Party which held its first congress 2 years later. Its leader from 1948 onward was José Manuel Fortuny, then a 32-year-old ex-law student, former radio newscaster, and ex-employee of the British Legation and of an American company, Sterling Products, Inc. At the time, he was ostensibly an officer of the *Partido Acción Revolucionaria* (PAR), a leading administration party. Other probable members of the first clandestine Communist organization were also members of the PAR, the other administration parties, and the labor unions. On September 28, 1949, a day from which the present Communist Party dates its anniversaries, this secret Communist group held its First Party Congress and adopted the name of *Partido Comunista de Guatemala* (PCG). But it was not until May 1950, in the last year of the Arévalo administration, that Fortuny and his group withdrew from the PAR. The following month they founded a newspaper, *Octubre*, as the frank precursor of an open Communist party, and at the same time Víctor Manuel Gutiérrez, a 29-year-old schoolteacher turned labor leader, founded a Communist-line party under the title of the *Partido Revolucionario Obrero de Guatemala* (The Revolutionary Workers Party of Guatemala—PROG).

When Col. Jacobo Arbenz, a radical leftist-nationalist army officer, assumed the Presidency on March 15, 1951, the PCG began to make rapid strides toward becoming an open party. In April Fortuny began publicly signing documents as "Secretary General of the *Partido Comunista de Guatemala.*" In June, on the first anniversary of the newspaper *Octubre,* the PCG held a public ceremony attended by several high government figures and proclaimed its intention to become a legally registered party. In October, Guatemala's labor unions were consolidated into the *Confederación General de Trabajadores de Guatemala* (CGTG) with Gutiérrez, by that time an avowed Communist, as its Secretary General. In January 1952, after a trip to Moscow, Gutiérrez dissolved his PROG and joined the PCG which shortly thereafter achieved recognition in the *Cominform Journal* published in Bucharest. In October, the party was included with the other administration parties in the "Democratic Electoral Front" for the impending congressional elections. In December, the party held its Second Party Congress, changed its name to the *Partido Guatemalteco del Trabajo* (PGT), and was shortly thereafter entered on the Civil Registry as a legally constituted political party.

The PGT, as it thus emerged, is a Communist party modeled on the Soviet Communist Party of the Stalinist era. Its statutes concentrate power in the hands of the Secretary General and the Political Committee whose dictates are binding on subordinate regional party organizations and cells (Basic Organizations) which are scattered through most of Guatemala with the heaviest concentration in the capital.

Statistics on party membership have never been made public, but the best evidence in the spring of 1954 indicates that 3,000 would be a minimum and 4,000 a likely figure. In addition to registered PGT members, however, there is an indeterminate number of influential intellectual Communists who have apparently not joined Fortuny's PGT and sometimes appear to be quarreling with it on organizational and tactical grounds though not on ultimate objectives.

The PGT leadership, headed by Fortuny as party Secretary General, consists of characteristically young *ladinos* of the lower middle class. The known ages of the 11-man Political Committee range from Fortuny's 37 to 24, with the exception of one member who is 47. Seven of the 11 were university students or schoolteachers (some with sidelines in journalism or office work) before entering politics while the remaining four were skilled workers including a printer, a carpenter, and a tailor. There are no pure Indians and none who have been previously employed in industry or transportation.

The party leadership is closely tied to Moscow. Fortuny and at least 5 others of the 11 on the Political Committee have visited Moscow and the key personnel of the Communist-controlled labor and "mass organizations" have also been there. There is a constant flow of propaganda material and instructions from Moscow and from the Soviet-controlled international labor and "mass" organizations to Guatemala.

The PGT publicly recognizes its debt to what it terms the "example" of the Soviet Communist Party and its aims and tactics must be viewed in the framework of the orthodox Communist thesis of the "inevitable victory" of communism throughout the world rather than on the local plane of gaining control of the Guatemalan Government as quickly as possible. In international affairs, the party has emphasized as its first task the "Peace" campaign which is defined as preventing the harnessing of Guatemala to the "war chariot of imperialism"—i. e. preventing Guatemala from taking its role in the defense of the Western democratic community grouped around the United States. As the corollary in domestic Guatemalan politics the PGT has announced as its first task the implementation of Guatemala's 1952 Agrarian Reform Law which is designed to transfer much of the country's potential arable land to new small farmers, and as its second the heightening of the struggle against United States "monopolistic" companies operating in Guatemala. These domestic programs tend toward the breakdown of the established order and are thus simultaneously adapted to the immediate objective of weakening Guatemala's position in the Western community and the ultimate objective of preparing the ground for the Communists' coming to power.

The PGT leadership attempts to achieve its objectives largely through indirect influence and control over government agencies, political and labor organizations, and Communist-front youth, students', and women's pressure groups. In the government, as illustrated by its 1951–54 growth, the party's chief asset is the sympathy of President Arbenz, with whose approval key government posts are filled with party workers and sympathizers. A key instrument is the "National Democratic Front," the formal alliance of the political parties and labor organizations supporting Arbenz which is dominated by the Communists and has all but replaced the Cabinet as a policy making agency. The National Agrarian Department is the stronghold of avowed PGT members; the government educational and propaganda systems have been infiltrated with numbers of Communists; and the Guatemalan Institute of Social Security with its large cash income is dominated by Solórzano and his group.

The PGT's ability to influence the government is greatly enhanced by its control and influence over organized Guatemalan labor which takes in well over 100,000 workers as compared to a total vote in the 1950 presidential elections of 415,000. In the CGTG, the Secretary General is Gutiérrez, head of the PGT Central Committee's Labor Union Commission, and most of the officers in key positions on the Executive Committee are PGT members and the party's control of the organization is effective. To a somewhat lesser extent, the PGT exerts influence over the *Confederación Nacional Campesina de Guatemala* (CNCG), the national federation of small farmers, tenants, and those organized farm laborers not incorporated in the CGTG. Its principal leaders have been associated with such Communist causes as the "Peace" movement and its program is closely in line with those of the PGT.

The principal "mass" organizations which support the party's efforts are the National Peace Committee, whose Secretary General is Mario Silva Jonama, Secretary of the PGT and head of its Education

Commission; the *Alianza de la Juventud Democrática de Guatemala* (AJDG), the youth organization whose Secretary General is Edelberto Torres Rivas, a 1953 visitor to Moscow, and one of whose most influential leaders is Huberto Alvarado, member of the PGT Central Committee and head of its Youth Commission; and the *Alianza Femenina Guatemalteca* (AFG), the women's organization whose Secretary General is Dora Franco y Franco, a Communist and one of whose founding members was Sra. de Arbenz. These organizations with the aid of the administration parties and the labor unions have recently set themselves a goal of 125,000 signatures on a "Peace" petition, thus giving an indication of their ability to simulate "mass support" for Communistic causes.

The PGT has thus become in 1954 the most influential single organization in Guatemalan political life and has established its dominion over the key institutions in Guatemalan political life, with the exception of the armed forces, which, however, have not opposed communism. The momentum it has achieved indicates further successes unless there is a change in the world situation or a successful but unforeseeable revolt by the Guatemalan Army or some other group. The party still has a few weaknesses: It still relies to a great extent on the good will of the Guatemalan President and his replacement by one less sympathetic to communism would be a serious blow; it is still faced to some extent with the danger that the Guatemalan revolution will turn into opportunist un-Communist channels since the indoctrination of most of the current sympathizers outside of the party is only superficial; and in the last analysis it is dependent on the international Communist movement for guidance and cohesion and probably could not long survive a major Soviet setback. However, the PGT has the salient advantage that it alone has the political initiative with the administration parties tending increasingly to follow in its ideological wake while the opposition has for the past 18 months increasingly become sterile and ineffectual. Moreover, the path of agrarian reform and extreme nationalism on which the Arbenz administration has hurried has been directed at breaking down the existing order without an immediate substitute, a situation which cannot but enhance the Communist position.

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13. COMMUNIST SHIPMENT OF ARMS TO GUATEMALA: Statement to the Press by the Department of State, May 17, 1954 [1]

The Department of State is in receipt of reliable information to the effect that an important shipment of arms has been effected from Soviet-controlled territory to Guatemala.

On May 15, the ship *Alfhelm*, believed to be under charter, arrived at Puerto Barrios, Guatemala, carrying a large shipment of armament consigned to the Guatemalan Government. This armament is now being unloaded at Puerto Barrios. We are advised that the armament was shipped from the Communist-administered port of Stettin.

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[1] Department of State *Bulletin*, May 31, 1954, p. 835.

Because of the origin of these arms, the point of their embarkation, their destination, and the quantity of arms involved, the Department of State considers that this is a development of gravity.

14. SIGNIFICANT FACTS IN JUDGING COMMUNIST INFLUENCE IN GUATEMALA: Transcript of a News Conference of the Secretary of State, May 25, 1954 (Excerpts)[1]

The Guatemalan nation and people as a whole are not Communists. They are predominantly patriotic people who do not want their nation to be dominated by any foreign power. However, it must be borne in mind that the Communists always operate in terms of small minorities who gain positions of power. In Soviet Russia itself only about 3 percent of the people are Communists.

In judging Communist influence in Guatemala three facts are significant:

1. Guatemala is the only American State which has not completed ratification of the Rio Pact of the Americas.[2]
2. Guatemala was the only one of the American States which at the last inter-American Conference at Caracas voted against a declaration that "the domination or control of the political institutions of any American State by the international communist movement, extending to this hemisphere the political system of an extracontinental power, would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America". . . .[3]
3. Guatemala is the only American nation to be the recipient of a massive shipment of arms from behind the Iron Curtain.

It has been suggested from Guatemala that it needs more armament for defense. Already Guatemala is the heaviest armed of all the Central American States. Its military establishment is three to four times the size of that of its neighbors such as Nicaragua, Honduras, or El Salvador.

The recent shipment was effected under conditions which are far from normal. The shipment was loaded at the Communist-administered Port of Stettin. The ship was cleared for Dakar, Africa. The operation was cloaked under a series of chartering arrangements so that the real shipper was very difficult to discover. When he was discovered he claimed that the shipment consisted of nothing but optical glass and laboratory equipment. When the ship was diverted from its ostensible destination and arrived at Puerto Barrios, it was landed under conditions of extraordinary secrecy and in the personal presence of the Minister of Defense. One cannot but wonder why, if the operation was an aboveboard and honorable one, all of its details were so masked.

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[1] Department of State *Bulletin*, June 7, 1954, pp. 873–874.

[2] See *supra*, p. 811, footnote 1.

[3] *Supra*, doc. 10.

By this arms shipment a government in which Communist influence is very strong has come into a position to dominate militarily the Central American area. Already the Guatemalan Government has made gestures against its neighbors which they deem to be threatening and which have led them to appeal for aid.

The Guatemalan Government boasts that it is not a colony of the United States. We are proud that Guatemala can honestly say that. The United States is not in the business of collecting colonies. The important question is whether Guatemala is subject to Communist colonialism, which has already subjected 800 million people to its despotic rule. The extension of Communist colonialism to this hemisphere would, in the words of the Caracas Resolution, endanger the peace of America.

Secretary Dulles was asked whether his statement on Guatemala left the implication that the sending of arms to Guatemala from behind the Iron Curtain might properly be covered by the Resolution of Caracas or the Rio Treaty. Mr. Dulles made the following reply:

The whole question of determining the circumstances justifying invoking the Rio Treaty is being studied. The evidence is being accumulated. We don't have it all at the present time, and until it is accumulated and until we have exchanged views with other American countries no decision has been made as to whether or not to invoke the consultative processes of the Rio Treaty.

Asked under what conditions the United States might act, whether alone or through implementation of the Rio Pact, Mr. Dulles replied:

We would expect to act under the Rio Pact, and in full conformity with our treaty obligations. No member of the Rio Pact gives up what the charter of the United Nations calls the inherent right of individual or collective self-defense; that right is reserved. Nevertheless, it is contemplated that, if the circumstances permit, there should be an effort, a sincere effort, at collective action and we would expect to comply with both the letter and the spirit of our treaty obligations.

Asked whether the United States intends to take the initiative in invoking the consultative clause of the Rio Treaty in the event none of the other member countries do so, Mr. Dulles replied:

That is an academic question because we know there are others who are prepared to take the initiative if the further development of the facts indicate there is a clear case on which to act.

Asked whether there would not be some delay in bringing about the implementation of the Rio Treaty, Mr. Dulles replied:

It would be possible to get very quick action by the consultative organ of the American States. They can be called into a meeting almost on 24-hour notice. I would not anticipate any difficulty if that event occurred in having very prompt and decisive action taken by the consultative organ.

15. THE STATUS OF CONSULTATIONS WITH REGARD TO GUATEMALA: Transcript of a News Conference of the Secretary of State, June 8, 1954 (Excerpts) [1]

At his news conference on June 8, Secretary Dulles was asked the current status of consultations going on with regard to Guatemala and the prospects for a Foreign Ministers Conference on the subject. The Secretary replied:

Well, there is going on an exchange of views with reference to the desirability of action which was forecast by the Caracas Declaration which was adopted last March [2] and subsequent developments in the way of this surreptitious shipment of arms into Guatemala from behind the Iron Curtain. That has necessitated a consideration by the American States as to whether or not a meeting of the American States would be desirable. There has been no decision taken as yet.

Asked whether the United States favored the holding of a Foreign Ministers Conference to deal with the question of Communists in Guatemala, Mr. Dulles replied:

We have not ourselves come to any final conclusion, because we believe that a final conclusion should be arrived at only after we have had an exchange of views with the other sister Republics. We are disposed to feel that the situation is one which calls for such a meeting, but, as I say, we are keeping our minds open on the subject until we have heard whatever arguments there might be on the other side of the matter.

Mr. Dulles was asked whether he had any comment on the suggestion by the President of Guatemala that he meet with President Eisenhower to iron out differences between the two countries. The Secretary replied:

There is a persistent effort by the authorities in Guatemala to represent the present problem there as primarily a problem between Guatemala and the United States relating to the United Fruit Company. That is a totally false presentation of the situation. There is a problem in Guatemala, but it is a problem in Guatemala which affects the other American States just as much as it does the United States, and it is not a problem which the United States regards as exclusively a United States-Guatemala problem.

If the United Fruit matter were settled,[3] if they gave a gold piece for every banana, the problem would remain just as it is today as far as the presence of Communist infiltration in Guatemala is concerned. That is the problem, not the United Fruit Company. And this particular problem between Guatemala and the United States equally prevails as between Guatemala and a number of other States which are seriously threatened or would be seriously threatened if communism, in the words of the Caracas Resolution, gets control of the political machinery of any American State. As was said at Caracas, that would be a danger to all the American States and threaten the peace of this hemisphere. Therefore it is not just a question between Guatemala and the United States.

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[1] Department of State *Bulletin*, June 21, 1954, pp. 950–951; see also statement issued by the Department of State, *ibid.*, June 28, 1954, pp. 981 ff.

[2] *Supra*, doc. 10.

[3] See the aide-mémoire from the Department of State to the Guatemalan Ambassador at Washington, Aug. 28, 1953 (Department of State *Bulletin*, Sept. 14, 1953, pp. 357–360).

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16. CONVOCATION OF A MEETING OF MINISTERS OF FOREIGN AFFAIRS: Resolution of the Council of the Organization of American States, June 28, 1954 [1]

THE COUNCIL OF THE ORGANIZATION OF AMERICAN STATES,

Having taken note of the communication presented by the Delegations of Peru, Nicaragua, Cuba, Honduras, United States, Panama, Haiti, the Dominican Republic, Brazil, and Costa Rica, under date of June 26, 1954,[2] requesting the convocation of the Organ of Consultation in accordance with the Inter-American Treaty of Reciprocal Assistance,[3]

RESOLVES:

1. To convoke a Meeting of Ministers of Foreign Affairs to serve as Organ of Consultation, pursuant to Article [s] 6 and 11 of the Inter-American Treaty of Reciprocal Assistance, for the purpose of considering all aspects of the danger to the peace and security of the continent resulting from the penetration of the political institutions of Guatemala by the international communist movement, and the measures which it is desirable to take.
2. To fix July 7, 1954, as the opening date of the Meeting.[4]
3. To designate the city of Rio de Janeiro as the site of the Meeting.

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17. INTERNATIONAL COMMUNISM IN GUATEMALA: Address by the Secretary of State, June 30, 1954 [5]

Tonight I should like to talk with you about Guatemala. It is the scene of dramatic events. They expose the evil purpose of the Kremlin to destroy the inter-American system, and they test the ability of the American States to maintain the peaceful integrity of this hemisphere.

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[1] PAU doc. C-sa-153, June 28, 1954; reproduced in *Decisions Taken at the Meetings of the Council of the Organization of American States*, vol. VII, Jan.-Dec. 1954, p. 33.

[2] For text, see Department of State *Bulletin*, July 5, 1954, pp. 31-32.

[3] *Supra*, pp. 789-796.

[4] At the Special Meeting held on July 2, 1954, the Council approved a resolution (PAU doc. C-sa-155) postponing *sine die* the Meeting of Ministers of Foreign Affairs, inasmuch as the Guatemalan situation had been resolved. See also *supra*, doc. 7.

[5] Delivered to the Nation over radio and television networks; Department of State *Bulletin*, July 12, 1954, pp. 43-45.

For several years international communism has been probing here and there for nesting places in the Americas. It finally chose Guatemala as a spot which it could turn into an official base from which to breed subversion which would extend to other American Republics.

This intrusion of Soviet despotism was, of course, a direct challenge to our Monroe Doctrine,[1] the first and most fundamental of our foreign policies.

It is interesting to recall that the menace which brought that doctrine into being was itself a menace born in Russia. It was the Russian Czar Alexander and his despotic allies in Europe who, early in the last century, sought control of South America and the western part of North America. In 1823 President Monroe confronted this challenge with his declaration that the European despots could not "extend their political system to any portion of either continent without endangering our peace and happiness. We would not," he said, "behold such interposition in any form with indifference."

These sentiments were shared by the other American Republics, and they were molded into a foreign policy of us all. For 131 years that policy has well served the peace and security of this hemisphere. It serves us well today.

In Guatemala, international communism had an initial success.[2] It began 10 years ago, when a revolution occurred in Guatemala. The revolution was not without justification. But the Communists seized on it, not as an opportunity for real reforms, but as a chance to gain political power.

Communist agitators devoted themselves to infiltrating the public and private organizations of Guatemala. They sent recruits to Russia and other Communist countries for revolutionary training and indoctrination in such institutions as the Lenin School at Moscow. Operating in the guise of "reformers" they organized the workers and peasants under Communist leadership. Having gained control of what they call "mass organizations," they moved on to take over the official press and radio of the Guatemalan Government. They dominated the social security organization and ran the agrarian reform program. Through the technique of the "popular front" they dictated to the Congress and the President.

The judiciary made one valiant attempt to protect its integrity and independence. But the Communists, using their control of the legislative body, caused the Supreme Court to be dissolved when it refused to give approval to a Communist-contrived law. Arbenz, who until this week was President of Guatemala, was openly manipulated by the leaders of communism.

Guatemala is a small country. But its power, standing alone, is not a measure of the threat. The master plan of international communism is to gain a solid political base in this hemisphere, a base that can be used to extend Communist penetration to the other peoples of the other American Governments. It was not the power of the Arbenz government that concerned us but the power behind it.

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[1] See *Memorandum on the Monroe Doctrine* (Department of State publication 37; 1930).

[2] See *supra*, doc. 12.

If world communism captures any American State, however small, a new and perilous front is established which will increase the danger to the entire free world and require even greater sacrifices from the American people.

This situation in Guatemala had become so dangerous that the American States could not ignore it. At Caracas last March the American States held their Tenth Inter-American Conference. They then adopted a momentous statement. They declared that "the domination or control of the political institutions of any American State by the international Communist movement . . . would constitute a threat to the sovereignty and political independence of the American States, endangering the peace of America." [1]

There was only one American State that voted against this declaration. That State was Guatemala.

This Caracas declaration precipitated a dramatic chain of events. From their European base the Communist leaders moved rapidly to build up the military power of their agents in Guatemala. In May a large shipment of arms moved from behind the Iron Curtain into Guatemala.[2] The shipment was sought to be secreted by false manifests and false clearances. Its ostensible destination was changed three times while en route.

At the same time, the agents of international communism in Guatemala intensified efforts to penetrate and subvert the neighboring Central American States. They attempted political assassinations and political strikes. They used consular agents for political warfare.

Many Guatemalan people protested against their being used by Communist dictatorship to serve the Communists' lust for power. The response was mass arrests, the suppression of constitutional guaranties, the killing of opposition leaders, and other brutal tactics normally employed by communism to secure the consolidation of its power.

In the face of these events and in accordance with the spirit of the Caracas declaration, the nations of this hemisphere laid further plans to grapple with the danger. The Arbenz government responded with an effort to disrupt the inter-American system. Because it enjoyed the full support of Soviet Russia, which is on the Security Council, it tried to bring the matter before the Security Council.[3] It did so without first referring the matter to the American regional organization as is called for both by the United Nations Charter itself and by the treaty creating the American organization.

The Foreign Minister of Guatemala openly connived in this matter with the Foreign Minister of the Soviet Union. The two were in open correspondence and ill-concealed privity. The Security Council at first voted overwhelmingly to refer the Guatemala matter to the Organization of American States. The vote was 10 to 1. But that one negative vote was a Soviet veto.[1]

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[1] Declaration of Solidarity for the Preservation of the Political Integrity of the American States Against International Communist Intervention; *supra*, doc. 10.

[2] See statement by the Department of State, May 17, 1954; *supra*, doc. 13.

[3] See U.N. doc. S/3232, June 19, 1954.

Then the Guatemalan Government, with Soviet backing, redoubled its efforts to supplant the American States system by Security Council jurisdiction.

However, last Friday, the United Nations Security Council decided not to take up the Guatemalan matter but to leave it in the first instance to the American States themselves.[2] That was a triumph for the system of balance between regional organization and world organization, which the American States had fought for when the charter was drawn up at San Francisco.

The American States then moved promptly to deal with the situation. Their peace commission left yesterday for Guatemala. Earlier[3] the Organization of American States had voted overwhelmingly to call a meeting of their Foreign Ministers to consider the penetration of international communism in Guatemala and the measures required to eliminate it. Never before has there been so clear a call uttered with such a sense of urgency and strong resolve.

Throughout the period I have outlined, the Guatemalan Government and Communist agents throughout the world have persistently attempted to obscure the real issue—that of Communist imperialism—by claiming that the United States is only interested in protecting American business. We regret that there have been disputes between the Guatemalan Government and the United Fruit Company.[4] We have urged repeatedly that these disputes be submitted for settlement to an international tribunal or to international arbitration. That is the way to dispose of problems of this sort. But this issue is relatively unimportant. All who know the temper of the U.S. people and Government must realize that our overriding concern is that which, with others, we recorded at Caracas, namely, the endangering by international communism of the peace and security of this hemisphere.

The people of Guatemala have now been heard from. Despite the armaments piled up by the Arbenz government, it was unable to enlist the spiritual cooperation of the people.

Led by Colonel Castillo Armas, patriots arose in Guatemala to challenge the Communist leadership—and to change it. Thus, the situation is being cured by the Guatemalans themselves.

Last Sunday, President Arbenz of Guatemala resigned and seeks asylum. Others are following his example.

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[1] See U.N. doc. S/3236/Rev. 1, June 20, 1954.

[2] U.N. doc. S/3237. See also *supra*, doc. 7. For U.S. statement in the Security Council on June 25, 1954, see Department of State *Bulletin*, July 5, 1954, p. 29.

[3] June 28, 1954.

[4] For exchange of correspondence regarding the United Fruit Co., see Department of State *Bulletin*, Sept. 14, 1953, pp. 357–360.

Tonight, just as I speak, Colonel Castillo Armas is in conference in El Salvador with Colonel Monzon, the head of the Council which has taken over the power in Guatemala City. It was this power that the just wrath of the Guatemalan people wrested from President Arbenz, who then took flight.

Now the future of Guatemala lies at the disposal of the Guatemalan people themselves. It lies also at the disposal of leaders loyal to Guatemala who have not treasonably become the agents of an alien despotism which sought to use Guatemala for its own evil ends.

The events of recent months and days add a new and glorious chapter to the already great tradition of the American States.

Each one of the American States has cause for profound gratitude. We can all be grateful that we showed at Caracas an impressive solidarity in support of our American institutions. I may add that we are prepared to do so again at the conference called for Rio. Advance knowledge of that solidarity undoubtedly shook the Guatemalan Government.

We can be grateful that the Organization of American States showed that it could act quickly and vigorously in aid of peace. There was proof that our American organization is not just a paper organization, but that it has vigor and vitality to act.

We can be grateful to the United Nations Security Council, which recognized the right of regional organizations in the first instance to order their own affairs. Otherwise the Soviet Russians would have started a controversy which would have set regionalism against universality and gravely wounded both.

Above all, we can be grateful that there were loyal citizens of Guatemala who, in the face of terrorism and violence and against what seemed insuperable odds, had the courage and the will to eliminate the traitorous tools of foreign despots.

The need for vigilance is not past. Communism is still a menace everywhere. But the people of the United States and of the other American Republics can feel tonight that at least one grave danger has been averted. Also an example is set which promises increased security for the future. The ambitious and unscrupulous will be less prone to feel that communism is the wave of their future.

In conclusion, let me assure the people of Guatemala. As peace and freedom are restored to that sister Republic, the Government of the United States will continue to support the just aspirations of the Guatemalan people. A prosperous and progressive Guatemala is vital to a healthy hemisphere. The United States pledges itself not merely to political opposition to communism but to help to alleviate conditions in Guatemala and elsewhere which might afford communism an opportunity to spread its tentacles throughout the hemisphere. Thus we shall seek in positive ways to make our Americas an example which will inspire men everywhere.

18. THE EXTENSION OF RECOGNITION TO THE NEW GOVERNMENT OF GUATEMALA: Statement by the Secretary of State at a News Conference, July 8, 1954 [1]

At his news conference on July 8 Secretary Dulles was asked if he was prepared to state whether the United States will extend diplomatic recognition to the Government of Guatemala as requested by the Junta there. Secretary Dulles made the following reply:

We are applying to that Government the same tests as we normally apply when there is a change of government. Primarily, we want to feel satisfied that the new regime will be able and willing to carry out its international obligations. If we are satisfied on that point, as I hope and expect we shall be, then we would proceed to recognition. But at the moment we are going through the normal testing as regards ability and willingness to carry out international obligations.

Inter-American Economic, Social, and Technical Cooperation

19. PRINCIPLES FOR AN EXPANDED PROGRAM OF TECHNICAL ASSISTANCE: Resolution of the Inter-American Economic and Social Council, April 10, 1950 [2]

The Inter-American Economic and Social Council

CONSIDERING:

That cooperation for the application of technical knowledge and skills is being practiced in the community of American States, both through their international system and through direct relations among members of their community;

That the Pan American Union and the inter-American specialized agencies have provided such technical services to Governments for some time;

That the timely suggestion of His Excellency the President of the United States of America, relative to an expanded program of technical assistance,[3] expresses a desire that is shared by all the American countries;

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[1] Department of State *Bulletin*, July 19, 1954, p. 83. On July 13, 1954, the Department of State announced that the U.S. Government had recognized the new Government in Guatemala (*ibid.*, July 26, 1954, p. 118).

[2] Inter-American Economic and Social Council, *Program of Technical Cooperation of the Organization of American States* (approved by the 1st Special Meeting of the Council on Apr. 10, 1950), Pan American Union (1950).

[3] See State of the Union Message, Jan. 4, 1950; *supra*, pp. 1–5.

That in accordance with the Charter of the Organization of American States,[1] the Council has the responsibility for promoting and carrying on such a program in the American Republics;

That it is desirable that such a program be developed, carried out, and coordinated by the said Council through the Pan American Union and the inter-American specialized agencies;

That a program of this character should be carried out through a cooperative effort to which all Member Countries should contribute with technical and economic resources;

That in order to implement this program, principles must be formulated to serve as a guide for the Member States and the cooperating agencies in its execution:

RESOLVES:

1. To sponsor a program of technical cooperation for the economic development of Member Countries, through the Pan American Union and those inter-American specialized agencies and American organizations of recognized international standing which may be able to contribute effectively to the execution of a program of this nature;

2. The activities of this program should be conducted in accordance with the following Statement of Principles:

GENERAL PRINCIPLES

Purpose of the Program

I. The purpose of the Program of Technical Cooperation is that through it, Member States may cooperate in the development of their economies, in order to improve the standard of living and to promote the social welfare of their peoples, in the broadest spirit of common benefit.

Nature of the Program

II. The aforementioned purpose should be accomplished by examination and implementation of that Program through the Council, within the principles of the Charter of the Organization of American States and in accordance with the regulations of the cooperating agencies, and by improving and expanding the technical possibilities of those agencies on the basis of the spirit of cooperation and solidarity which characterizes the Inter-American System.

III. The activities carried out by cooperating agencies should be in accordance with the nature and purposes of such agencies and should constitute essentially an expansion or development of the cooperating agencies regular activities. Such activities should be coordinated among themselves and with similar activities carried on by the Governments of Member States on the one hand and by the United Nations and its specialized agencies on the other hand.

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[1] *A Decade of American Foreign Policy*, pp. 427–455.

IV. The technical assistance rendered by inter-American agencies cooperating in this program should:

(a) Contribute to the economic development of the interested Member Country or Countries or promote activities that will make this development possible;
(b) Have as its purpose to provide training, instruction, and technical advice in such way as to permit the earliest and broadest application of the acquired knowledge and techniques to the economic development of the Member States;
(c) Contribute, in all cases deemed possible by the interested parties, to the earliest and most extensive preparation, improvement, or increase of technical groups and research institutions in each country.

TECHNICAL COOPERATION PROJECTS

Selection of Projects

V. In developing projects for inclusion in the Program, cooperating agencies should take into consideration the views expressed in this respect by the Governments of Member States; study whether the proposed assistance is authorized under their respective statutes; and determine whether the agency has, or can provide, the technical resources needed, and whether such assistance can be provided in accordance with the principles adopted.

VI. Projects selected for inclusion in the Program should contribute directly or indirectly to the solution of problems of general interest, to increased productivity, and to the conservation of natural and human resources, and their implementation should ensure a broad and equitable distribution of the benefits obtained therefrom. Projects designed to improve the standard of living of the population, especially nutrition, and those tending to assist the Governments of Member States to improve the health, housing, education, and social conditions of their populations, should be considered of fundamental importance. In initiating a project, account should be taken of the social effects of the impact of the anticipated economic or technical development on the peoples concerned, and the most advisable methods of meeting the consequent social problems should be studied.

Priority of Projects

VII. In selecting projects, an order of priority should be established, based upon proposals received and taking into account principally the following factors:

(a) Whether the project in its general aspects is of common benefit to the American States;
(b) The number of Governments expressing interest in it;
(c) Whether it is a necessary factor in other stages of economic development;

(d) The effect which it will have on the level of productivity;

(e) Whether the Governments have the means and resources, including financing, that will permit them to undertake or further the anticipated technical or economic development, so as to ensure that the service will be of real benefit;

(f) The ease with which a project can be integrated with the normal program of the agency providing the technical assistance;

(g) The experience of the agency providing the technical assistance in the respective field.

VIII. In establishing an order of priority for projects, full account should be taken of the need of certain States for specific services of basic urgency to their economic development.

ECONOMY OF EFFORT

IX. Cooperating agencies should take such steps as are necessary to make the fullest use of existing facilities and resources.

X. Each cooperating agency should so develop its projects as to confine them to those fields in which it has clear competence and satisfactory experience.

COORDINATION FOR PREPARATION AND EXECUTION OF THE PROGRAM

Preparation of the Program

XI. Cooperating agencies should work together for the purpose of preparing and developing the Program, which should so result from the cooperation among them as to make it possible later to entrust execution of the projects, in whole or in part, to the agency or agencies that are best equipped by virtue of their experience and technical resources.

XII. In preparing the Program cooperating agencies should request the cooperation of the Governments of Member States and of the United Nations and its specialized agencies, taking into account the programs of technical assistance which those organizations have planned or are carrying out.

XIII. The Secretary General of the Organization of American States may be authorized to undertake such technical assistance activities as are not the responsibility of any of the cooperating agencies.

XIV. In order to achieve uniformity and to facilitate their coordination, projects should be classified first according to their purposes and second, according to the means that are to be used in achieving those purposes.

Execution of the Program

XV. To facilitate the provision of technical assistance to Member Countries, the agencies cooperating in the Program should assist each other and cooperate with other organizations engaged in similar activities. Among other things, such cooperation might include the following points:

(a) Supplying technical personnel, materials, services, and funds;
(b) Participation in joint training programs;
(c) Extending to Member States the facilities for technical assistance which cooperating agencies already have available;
(d) Exchanging or supplying data and information to facilitate development of the Program.

XVI. Direction of the execution of each project should devolve upon the agency whose field of activity covers the major part of the work contemplated.

STANDARDS FOR EXECUTION OF THE PROJECTS AND FOR PERSONNEL

XVII. Cooperating agencies should carry out technical assistance activities in a Member Country only after reaching full agreement with the Government concerned with the duties of each of the parties being clearly defined.

XVIII. The technical assistance provided to Member Countries should take into consideration their economic, social, and cultural characteristics.

XIX. No project should be started, even though funds are available for it, until the agency charged with carrying it out has determined the necessary preliminary arrangements, in agreement with the Governments of the Member States concerned, with respect to the training of the necessary technical personnel and the acquisition of the equipment or supplies required for the project.

XX. Technical assistance activities should be conducted at all times on the highest professional level and with complete objectivity.

XXI. Technical experts used by the agencies that cooperate with the Governments of Member States should be the most able that can be obtained in each field and within the resources of the respective agency. In addition to their technical ability, they should have an understanding of the traditions and culture of the countries to which they are assigned and they should be capable of adopting their techniques to situations as they actually exist in such countries.

XXII. The personnel on duty in Member Countries should limit their activities under the Program specifically to the project in question and should not avail themselves of their mission to engage in political or commercial activities or others incompatible with their task.

XXIII. Governments should cooperate in the selection of the qualified technical personnel needed by cooperating agencies and should make available to them the services of national technical experts who can contribute to the success of the Program.

XXIV. Whenever possible, cooperating agencies should provide mixed membership in the technical groups carrying out a project in a given region or country, and should give predominance to the experts of the nation or nations in which the project is being carried out.

XXV. Whenever possible, cooperating agencies should pool their efforts in the selection and orientation of the technical experts needed in the Program. They should likewise request technical schools, foundations, research institutions, and other agencies for the temporary services of their technicians.

XXVI. Whenever desirable, arrangements should be made with the United Nations and its specialized agencies to exchange and make technical personnel available and to combine personnel training and recruitment activities.

PARTICIPATION OF THE GOVERNMENTS

XXVII. Governments of Member States should take charge of preliminary work in order to determine and define the nature of the technical assistance needed.

XXVIII. In those cases where cooperating agencies undertake long range technical assistance projects in Member Countries, the agreements between such agencies and the respective Governments should establish that the latter, without prejudice to their initial participation, will gradually assume complete direction, administration, execution, and financing of such projects. For this purpose, national technicians should participate in the direction and administration of the projects.

XXIX. Governments of Member States should make available to cooperating agencies providing them with technical assistance all information necessary for the success of their activities; they should likewise facilitate the necessary contacts with nongovernmental sources of information.

XXX. Governments of Member States in which technical assistance is being carried out should coordinate their own activities related to the technical assistance provided by cooperating agencies, in such manner that the resources of such agencies may be utilized effectively and efficiently in the stimulation of processes that will result in the economic development of the respective countries.

XXXI. To obtain full benefit of the technical assistance received, Governments of Member States should act quickly, using all the resources available for the purpose, to develop national programs deemed necessary to spur their economic development. It is understood that where substantial sustained effort is required for carrying out certain phases of economic development, Governments will give due attention to the necessary legislation, administrative arrangements, and financial requirements of such developments.

Contributions

XXXII. The Governments of all Member States should contribute to the special account required to finance the Program of Technical Cooperation, their contributions to be used for the common benefit of Member States without regard to the direct benefit that any one State might receive. Contributions to the special account should be made in harmony with the international nature of the Program and with its underlying concept that States, using their available economic and technical resources, should extend technical assistance to less developed nations.

XXXIII. In addition to their contributions to the special account, Governments of Member States receiving direct technical assistance should normally assume responsibility for as large a part of the cost as possible and should at least meet those expenditures that can be paid in their respective currencies.

Publicity and Reports

XXXIV. Governments of Member States should freely make available information on the results achieved by the technical assistance carried out in their respective countries by cooperating agencies.

XXXV. The Government of a Member State which requests or receives technical assistance from any source should report thereon to the Council in order that cooperating agencies may take this into account on studying proposals and preparing projects.

3. To constitute, subordinate to the Council itself, a Coordinating Committee on Technical Assistance, under the chairmanship of the Secretary General of the Organization of American States and composed of a representative of the Pan American Union and of the highest ranking official, or his representative, of each of the cooperating agencies.

4. The duties of the Coordinating Committee on Technical Assistance shall be as follows:

(a) To examine proposals for technical assistance and to prepare an annual program in accordance with the foregoing Statement of Principles. That program should consist of detailed projects, including itemized estimated costs. The Council will decide upon the date for submitting the program and upon the manner of processing of the proposals;

(b) To adopt the measures necessary to carry out the Program of Technical Cooperation approved by the Council, determining which of the projects of the said Program shall have preference within the general order of priorities established by the Council for execution of the Program.

(c) To allocate funds to cooperating agencies from the special account that may be established for that purpose in order that these agencies may carry out the projects included in the Program;

(d) To report to the Council at appropriate intervals on the technical assistance activities developed under the Program, in order that the Council may be currently informed;

(e) To submit to the decision of the Council any question which it (the Committee) is unable to resolve;

(f) To establish close liaison with the Governments of Member States and with the United Nations and its agencies providing technical assistance services, so that proposed projects may be considered and examined in the light of information received and so that the aforesaid Governments and organizations may be kept informed of the activities of cooperating agencies. In establishing liaison with the United Nations, the possibility should be considered of inviting the Technical Assistance Board of the United Nations to be represented at its meetings by an observer and of seeking reciprocal representation at the meetings of that Board;

(g) To act as a clearing house of information on all technical assistance services provided by the Governments of Member States, so that this information may be made available to cooperating agencies, to Governments, and to other authorized sources. For this purpose, cooperating agencies should regularly report to the Committee on their activities, including proposals for technical assistance received and action taken thereon;

(h) To facilitate the preparation and execution of technical assistance projects carried out jointly or cooperatively between cooperating agencies and between such agencies, the Governments of Member States, and agencies of the United Nations. For this purpose the Committee should facilitate the exchange of information required and assist in administrative, financial, and personnel arrangements.

(i) In those cases in which the proposal for technical assistance does not fall within the Statement of Principles or within the technical assistance activities of any of the cooperating agencies, the Committee, if possible, should recommend to the interested Governments the appropriate agency for providing the assistance;

(j) To take into account the suggestions of labor and management associations, as well as those of other unofficial agencies with which agreements may have been made under Article 14 of the Statutes of the Council.

5. To request the Secretary General to appoint, as a part of the staff of the Pan American Union, an Executive Secretary and the necessary technical personnel to serve as Secretariat of the Coordinating Committee on Technical Assistance.

6. The Council reserves to itself full authority over the Program of Technical Cooperation and will normally exercise the following functions:

(a) To consider and decide upon the program proposed by the Committee, taking into consideration the contributions which may be made by the Governments to the special account in accordance with the Statement of Principles;

(b) To decide upon the interpretation of this Resolution when requested to do so by Governments of Member States or by the Committee;

(c) To receive, study, and act on reports of technical assistance submitted by the Committee and to transmit them to the Governments;

(d) To consider and make recommendations concerning the methods of cooperation and collaboration between Governments of Member States and cooperating agencies, and between the latter and the agencies of the United Nations.

7. To request the Secretary General of the Organization of American States to set up a special account for the purpose of financing the Program of Technical Cooperation. Contributions of the Governments of Member States will be credited to that account, and allocations will be made from it to cooperating agencies for carrying out the Program and for meeting the administrative expenses connected therewith. The following financial arrangements should obtain with respect to the administration of this special account:

(a) Contributions to the Program of Technical Cooperation will be made on the basis of monetary credits, of which as large a part as possible should be in convertible currency and the rest in the national currency of the participating country. Governments will make their contributions subject to the provisions on which the Chairman of the Committee, after consultation with the Committee, may agree with the participating Governments. It is understood that contributions shall not be subject to restrictions as to their use by any cooperating agency, or in any specific country, or for any specific project. On drawing against the credits in local currency which a Government may have in the special account, the Committee and the cooperating agencies will consult with the interested Government and take into account, in the country in question, the services and supplies which could be obtained in that country and which in the opinion of the Committee could be used under the Program. With respect to any local currency balances that cannot be usefully employed in the Program, the Committee will consult with the respective Governments regarding their conversion to other currencies that can be utilized. If, on the basis of an agreement between the Committee and the Government of a Member State, the Government pledges itself to supply, as part of its contribution, materials and services for the common benefit under the Program, such contribution will be evaluated in monetary terms by the Committee, in consultation with the Government concerned, and the Committee will credit the Government with such contribution in the special account;

(b) During the first year, and subject to the approval of the Council of the Organization of American States, the Council, if asked to do so by the Committee, may request the Pan American Union to advance funds, from unobligated funds in its possession, to the special account for technical assistance, on account of the contributions offered to the special account by the Governments of Member States, such funds to be reimbursed to the Pan American Union by the Committee upon receipt of the said contributions;

(c) The special account for technical assistance shall be subject to the fiscal regulations of the Pan American Union, in so far as possible, and under the control and jurisdiction of the Treasurer of the Pan American Union;

(d) The Committee will make allocations from the special account to cooperating agencies, on the basis of specific projects contained in the Program approved by the Council;

(e) Each cooperating agency shall use the allocations which it receives only for contracting obligations and meeting the expenses resulting from the respective project which is part of the program approved by the Council and authorized by the Committee;

(f) After consultation with any cooperating agency, the Committee may accept and credit to the special account unobligated allocations not utilized in the execution of a specific project;

(g) Only on direct authorization of the Committee may the Treasurer of the Pan American Union withdraw funds for use in carrying out projects approved by the Council;

(h) The Secretary General of the Organization of American States should make the necessary arrangements for an annual audit of the accounts of this Program.

8. To recommend that cooperating agencies take appropriate steps:

(a) To adhere to the Statement of Principles as contained in Point 2 of this Resolution;

(b) To cooperate fully in the Program of Technical Cooperation;

(c) To receive the sums allocated to them or other contributions from the special account mentioned in Point 7 of this Resolution, and to submit to the audit of accounts provided for in paragraph (h) of Point 7;

(d) To use such sums and contributions in conformity with the specifications of approved projects and the provisions of this Resolution, to exercise the necessary control, and to account for the use of the aforementioned funds;

(e) To cooperate with the Committee for the benefit of the Program and to keep the Committee informed on their technical assistance activities, including those financed from the special account.

20. TECHNICAL COOPERATION PROGRAM OF THE ORGANIZATION OF AMERICAN STATES:
of Contributions as of May 2, 1955[1]

Member country	Calendar year 1951		Calendar year 1952		Calendar year 1953		Calendar year 1954		Calendar year 1955	
	Pledged	Paid	Pledged	Paid	Pledged	Paid	Pledged	Paid	Pledged	Paid
Argentina	87, 857	87, 857	87, 857	87, 857	87, 857	87, 857	100, 000	100, 000	100, 000	....
Bolivia	....	....	7, 388	....	....	....	7, 388	....	....	....
Brazil	128, 000	128, 000	128, 000	128, 000	128, 000	128, 000	150, 000	....	150, 000	....
Chile	23, 429	23, 429	23, 429	23, 429	23, 429	23, 429	34, 452	....	34, 452	....
Colombia	26, 857	26, 857	26, 857	26, 857	39, 494	39, 494	39, 494	39, 494	39, 494	....
Costa Rica	2, 429	2, 429	2, 429	2, 429	3, 571	3, 571	3, 571	3, 571	3, 571	....
Cuba	17, 143	17, 143	17, 143	17, 143	17, 143	17, 143	17, 143	....	17, 143	....
Dominican Republic	4, 571	4, 571	5, 260	5, 260	6, 722	6, 722	6, 722	6, 722	6, 722	6, 722
Ecuador	6, 142	6, 142	6, 142	6, 142	6, 142	....	7, 000	....	9, 033	....
El Salvador	4, 571	4, 571	4, 571	4, 571	4, 571	4, 571	4, 571	4, 571	6, 722	5, 000
Guatemala	5, 000	5, 000	5, 000	5, 000	5, 000	5, 000	5, 000	5, 000	7, 000	....
Haiti	2, 000	2, 000	2, 000	2, 000	2, 000	2, 000	2, 000	2, 000	2, 000	2, 000
Honduras	3, 143	3, 143	3, 500	3, 500	3, 500	3, 500	4, 622	4, 622	4, 622	4, 622
Mexico	14, 758	14, 758	....	....	35, 000	35, 000	....	....	24, 000	....
Nicaragua	3, 000	3, 000	3, 000	3, 000	3, 000	3, 000	5, 000	5, 000	5, 000	....
Panama	2, 714	2, 714	2, 714	2, 714	2, 714	2, 714	2, 714	....	2, 714	....
Paraguay	....	....	....	....	5, 000	....	5, 000	....	5, 000	....
Peru	17, 429	17, 429	....	....	....	....	....	....	14, 000	....
United States	882, 143	882, 143	[1] 839, 578	839, 578	[1] 840, 963	840, 963	[1] 852, 335	852, 335	[1] 1,118,530	[2] 559, 265
Uruguay	19, 100	19, 100	19, 100	19, 100	13, 865	13, 865	13, 865	....	13, 865	....
Venezuela	13, 764	13, 764	12, 926	12, 926	22, 688	22, 688	22, 351	22, 351	34, 032	34, 032
Total	1, 264, 050	1, 264, 050	1, 196, 894	1, 189, 506	1, 250, 659	1, 239, 517	1, 283, 228	1, 045, 666	1, 597, 900	611, 641

[1] The United States pledged for each year a maximum of $1 million provided that this did not exceed 70 percent of total pledges. The amounts shown as United States contributions are the amounts called forth by the pledges and contributions from other governments.

[2] The United States pledged a maximum of $1,500,000 provided that this did not exceed 70 percent of total pledges.

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[1] Submitted in support of testimony for the Mutual Security Act of 1955 by the Department of State and the Foreign Operations Administration; *Hearings before the Committee on Foreign Affairs, House of Representatives, 84th Congress, 1st Session, on the Mutual Security Act of 1955*, p. 325.

21. UNITED STATES–LATIN AMERICAN RELATIONS: Report to the President by Special Ambassador Milton S. Eisenhower, November 18, 1953 (Excerpts)[1]

DEAR MR. PRESIDENT:

At your direction, I have in recent months sought ways in which the traditional bonds of friendship between the United States and the nations of Latin America might be strengthened.

Early in April, 1953, you asked me to do three things:

First, to express to the governments and peoples of Latin America the sincere conviction of the United States that sound economic, military, political, and cultural relationships between our countries are necessary to our common future;

Second, to obtain a broad continental perspective of those conditions which affect the relationship of the United States with the republics of Latin America; and

Third, to consider what, if any, changes might be desirable in United States policies and programs in order to contribute to the meaningful unity we all desire.

[Here follows an account of the selection of mission members, of places visited (June 23–July 29, 1953), officials consulted, and of the preparation of the Report. After this introduction, the Report treats: II. The Importance of Latin America and the United States to Each Other; III. Our Approach to Our Assignment; and IV. What We Found.

V. WHAT SHOULD BE DONE?

In the light of the total situation in South America as we found it, my associates and I have, since we came home, considered carefully what the Executive Branch of our Government, the Congress of the United States, and leaders in private life might do to strengthen relationships between our country and the friendly neighboring nations to the South.

Since the other four members of the special mission [2] are officers of the Federal Government, and may therefore make their convictions known from time to time in the official policy councils of government, it seems appropriate that this concluding section should reflect my personal views.

STRENGTHENING UNDERSTANDING AND MUTUAL RESPECT

It seems evident that the first requirement is a better understanding in the United States of the importance of firm and abiding relationships between the United States and the nations of Latin America. Sentimentally, at least, the people of our country want good relations with their neighbors. But good relations may call for new policies, actions, or legislation. These will come to fruition only if there is a broad comprehension of the great need for stable political, cultural, military, and economic cooperation, as my colleagues and I have explained in this report.

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[1] Department of State *Bulletin*, Nov. 23, 1953, pp. 695–717. Also reprinted as Department of State publication 5290 (1953).

[2] John M. Cabot, Assistant Secretary of State; Andrew N. Overby, Assistant Secretary of the Treasury; Samuel W. Anderson, Assistant Secretary of Commerce; and W. Tapley Bennett, Jr., Deputy Director of the Office of South American Affairs, Department of State.

While knowledge of us is greater in Latin America than is our knowledge of them, there are nonetheless many serious misunderstandings on their part which need to be overcome. The task of developing the essential understanding is a mutual one.

(1) Existing programs of intellectual and cultural cooperation—including scholarships, bi-national centers and language institutes, libraries, and exchange of persons—should be expended.

The United States should increase its support of the American schools in Latin America which now have some 70,000 students enrolled. . . .

We should encourage more visits and lecture tours in Latin America by United States citizens who are eminent in the sciences, arts, and letters, for Latin Americans have a high appreciation of the cultural values of life.

We should encourage publishers, editors, business, agricultural and labor groups, students and others to travel more extensively in Latin America, and Government departments should maintain information services for groups planning such trips.

We should increase the number of invitations to leading Latin Americans to visit the United States, arranging, with the assistance of universities, lecture tours for them to help defray expenses.

We should also seek to arrange cultural exchanges in all branches of the arts.

Especially should we invite more democratic labor leaders of the Latin American nations to this country, helping them to arrange tours so that they may understand fully the functioning of our private competitive enterprise system and the key place free workers occupy in our society. We should expand our program of providing training courses for promising labor leaders.

With the cooperation of the American Council on Education and the National Education Association, we should encourage universities and schools to establish close cooperative relations with comparable institutions in Latin America. . . .

(2) The press, radio, and motion picture programs of the United States Information Agency in Latin America, though limited in scope, are effective. In the conditions prevailing virtually throughout Latin America, local radio and motion picture programs have been particularly successful in getting our measures to the masses. They should be continued and expanded, for truthful information widely disseminated is one indispensable means of countering communist propaganda activities aimed at disrupting hemispheric solidarity and free world unity.

(3) The United States National Commission for UNESCO, which cooperates with the Secretary of State in promoting understanding

among the peoples of the world, might well be requested to expand its program with respect to Latin America. If the Commission were willing to do this, pertinent educational and informational materials could be distributed by the nation-wide organizations represented on the Commission, and informative group discussions on Latin America might develop in the cities and towns and on the farms all over the country. Universities, secondary schools, and elementary schools could be encouraged by the Commission to do more in their curricular and extracurricular activities.

(4) It is my hope that several of the large foundations of the United States will make additional scholarships available to students of Latin America, especially to students in those countries where exchange difficulties make travel to and study in the United States difficult. Further, one or more of the foundations, with the cooperation of a university, could perform a valuable service by establishing as a pilot project a bi-national institute in the United States, modeled on those now functioning in several Latin American nations. The institute should be largely self-supporting, and should teach Spanish, Portuguese, and Latin American history and literature. Students should be of both school and post-school age.

(5) United States business firms now operating in Latin America might help their public relations and promote understanding by increasing their support of the American schools and the bi-national institutes in their host countries, and by offering scholarships and training grants to talented young Latin Americans.

(6) Attitudes toward United States business enterprises now operating successfully in Latin America have been discussed earlier in this report. United States companies in Latin America are playing an important role in promoting better understanding and friendship among the peoples of the American republics. They should seek constantly to ensure that their staffs are good ambassadors as well as good businessmen. By their actions and their relations with the public they can do still more to increase the understanding of the contribution which enlightened business methods are making to the local economies.

(7) In addition to the officially-sponsored exchange-of-persons programs, there are opportunities for distinguished American scholars who speak Spanish or Portuguese to lecture in universities in many of the American republics. . . .

(8) In Massachusetts, New York, Florida, Louisiana, California and Texas—and no doubt in other states—are private associations whose major purpose is to develop better understanding in the United States of Latin American culture, histories, problems, and aspirations. Some have active business, educational, and cultural services. They provide forums for distinguished Latin American visitors who come to the United States. This type of association merits the thoughtful consideration of states and cities not now having such institutions. The large number of Foreign Policy Associations in a multitude of American communities might well give special attention to our relations with Latin America.

(9) We should look to the free mass communication media of the United States, and especially to the press associations and newspapers and magazines with Latin American correspondents and circulations, as a major means of promoting essential understanding. . . . It would be helpful if these media regularly found it possible to do more than report the spectacular occurrences in the Latin American countries. A revolution will merit widespread attention by the press, radio and television, but the long-term underlying causes may not. Yet the basic causes may have more to do with the future welfare of our country—and with international relationships—than did the revolution which brought new leaders to power.

. . . .

(10) The Tenth Inter-American Conference, which is scheduled to be held at Caracas in March 1954, will present a timely opportunity to the United States to emphasize our positive interest in strengthening efforts to increase intercultural understanding as the foundation of mutually advantageous cooperation in all relevant areas.[1]

Strengthening Economic Cooperation

Before undertaking to make specific recommendations on strengthening our economic cooperation with the countries of Latin America, I feel impelled to express the view that the greatest contribution which the United States can make to the well-being of the world as a whole is the maintenance of a high level of economic activity in this country at relatively stable prices.

In this report, my associates and I have described conditions which affect economic development in Latin America. We have also discussed practices in certain countries which deter the flow of private and public capital needed for balanced development. Whether such conditions are changed is up to the nations involved. Some of my recommendations for strengthening economic relationships must be made on the assumption that deterrents to the flow of capital will be altered, or must be considered only with respect to those nations where serious deterrents do not exist.

I specifically recommend:

(1) That the United States adopt and adhere to trade policies with Latin America which possess stability, and with a minimum of mechanisms permitting the imposition of increased tariffs or quotas. I consider this matter of stability and consistency the outstanding requirement.

. . . .

(2) That the United States adopt a long-range basic-material policy which will permit it to purchase for an enlarged national stockpile certain imperishable materials when prices of such materials are declining.

. . . .

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[1] See address by the Secretary of State before the Conference, Mar. 4, 1954; *infra.*

I recognize that the implementation of such a policy would presumably have to await the time when United States fiscal resources are not severely strained by defense expenditures; further, this policy is now partly in effect in the defense stockpiling program.

(3) That the United States carefully examine whether or not it would be appropriate to amend present tax laws to remove existing obstacles to private investment abroad.

(4) That public loans for the foreign-currency costs of sound economic development projects, for which private financing is not available, go forward on a substantial scale, provided, of course, that the borrowers take the necessary measures to ensure that they are good credit risks.

It is generally agreed that the International Bank for Reconstruction and Development[1] should have the principal responsibility for making development loans, as compared with the shorter-range lending operations of the United States Export-Import Bank.[2] However, it seems essential that the United States maintain a national lending institution to make sound development loans which are in our national interest, but which might not be made by an international agency.

. . . .

(5) That the United States stand ready to give appropriate technical help to the Latin American countries that express a desire to work out more orderly ways of determining how their resources, including their borrowing capacity, can make the greatest contribution to their economic development. It is noteworthy that the International Bank has made valuable contributions in this field.

Often, public loans for transportation, power, and harbor development, for example, will lay the foundation for sound industrial development and thereby encourage private enterprise, both local and foreign. The lack of coordination in planning and lending now, however, is notable in some countries.

The purpose of technical assistance in this area should be to establish priorities of need, to develop project plans in ways that satisfy lending institutions, and to do this within the credit worthiness of each nation.

(6) That, in very unusual circumstances, the President of the United States be in a position to make grants of food from our surplus stocks to Latin American countries.

Everyone recognizes the validity of food grants to meet problems caused by famine. But a no less serious human emergency exists when a nation which normally imports a substantial percentage of its food is unable to buy and its people are on the verge of starvation.

If food grants should be made, it would be appropriate to require the government receiving the grants to set aside counterpart funds, equal to the value of the grant, to be used in expanding its domestic agricultural production.

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[1] Established under Articles of Agreement, July 22, 1944; *A Decade of American Foreign Policy*, pp. 251–273.

[2] See Export-Import Bank Act of July 31, 1945; 59 Stat. 526.

(7) That the technical cooperation program in Latin America be expanded.

The provision of expert technical assistance has been and continues to be an effective method of helping the people of Latin America attain better health, higher industrial production, better education, improved agricultural production, and higher standards of living. It has made firm friends for the United States among governments and individual citizens throughout the Hemisphere.

We should continue the "servicio" type of administration—a device in which local people and United States technical personnel share responsibility for the work.

. . . .

For most of the technical cooperation work in Latin America today, the governments of the countries in which the work is done provide two to three times as much of the funds as does the United States. In some countries the local contribution runs eight or nine to our one.

. . . .

(8) That we continue our vigorous support of the various technical agencies operating as an integral part of our activities in the Organization of American States.

Particularly should we continue to support the work of the Inter-American Economic and Social Council and to encourage that organization to expand its successful multilateral technical cooperation program among the nations of the Hemisphere.[1]

(9) That our Government also continue to support the work of the International Monetary Fund which has extended helpful short-term financial aid and valuable technical assistance to the nations of Latin America on their monetary and exchange problems. We should also give continuing support to the work of United Nations agencies such as the Economic Commission for Latin America, with headquarters in Chile, which is helping the Latin American governments to further their economic development through use of their own resources.

Finally, I urge the Administration, the Congress, and the people of the United States to take a long-range view as we consider how we may strengthen our economic relations with the nations of Latin America.

There is no doubt in my mind about the future of Latin America. Her people are on the march. They are determined to improve their standards of living. They have the resources and the manpower to do so.

Latin America is destined to be an economically powerful area of the globe. While it will always have economic relations with Europe and other parts of the world, its firmest and most extensive relations can and should be with the United States.

In the long view, economic cooperation, extended to help the people of Latin America raise their level of well-being and further their democratic aspirations, will redound to their benefit and to ours.

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[1] See *supra*, docs. 19 and 20.

Working together, the nations of this Hemisphere can, if history should so decree, stand firmly against any enemy in war, and prosper mightily together in times of peace.

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22. UNDERSTANDING AND COOPERATION: Address by the Secretary of State at the Second Plenary Session of the Tenth Inter-American Conference, Caracas, March 4, 1954 (Excerpt)[1]

. . . .

The United States recognizes that the freedom and independence which we all covet, and which we are resolved to preserve, is based not only on political and moral considerations but also on economic and social well-being.

The United States Government is confident of its ability to maintain the health and vigor of its own national economy. President Eisenhower, in his recent economic report to the Congress,[2] said that "The arsenal of weapons at the disposal of the Government for maintaining economic stability is formidable." This is important not only for ourselves but also for others. A high level of economic activity within the United States creates a demand for imports, and provides the means for continued economic development in this hemisphere and elsewhere.

It is, of course, a fact, and properly a fact, that no government operates primarily in the interests of other peoples. The first responsibility of every government is to its own people, for whom it acts in a trustee capacity. Nevertheless, it is also true that no government adequately serves its own people unless it also is concerned with well-being in other countries.

Nations generally have it within their own power to do most of what is required for decent and healthy social conditions for their people. The task is thus primarily a domestic one. But there is need for international conditions which facilitate a mutually advantageous exchange of goods and a mutually advantageous flow of capital from the more developed countries to the countries which are less developed. That is, for all, a matter of enlightened self-interest.

I can assure you that President Eisenhower sees as clearly as any living person that the welfare of the United States is related to that of others. When last year our President asked his brother to visit the South American countries, it was primarily that this message might be brought to you in a manner so authentic that no one could doubt it.

Dr. Milton Eisenhower's report[3] has been brought to the attention of our government departments with a request that they do all within their power to carry out its recommendations. Much has already been done in this respect, and more is in prospect. For example, the Commission on Foreign Economic Policy—the Randall Commission—has made specific recommendations which would give effect to that part of the report which stressed the importance of stabilizing the rules of international trade.[1]

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[1] *Tenth Inter-American Conference, Caracas, Venezuela, March 1–28, 1954: Report of the United States Delegation* (Department of State publication 5692, 1955), pp. 46–50.

[2] Economic Report of the President Transmitted to the Congress January 28, 1954; H. Doc. 289, 83d Cong., 2d sess.

[3] *Supra.*

Also, funds for technical assistance and cultural cooperation are being increased. The latter is particularly significant in view of Dr. Eisenhower's recommendation for "strengthening efforts to increase inter-cultural understanding as the foundation of mutually advantageous cooperation in all relevant areas."

There are five specific matters which I might mention at this time.

1. First, let me speak about coffee. I know that it is not the desire of the coffee-producing countries of the Western Hemisphere that prices should be so high as to discourage consumption and build up habits of drinking other beverages. Present prices are, I believe, primarily due to natural causes beyond human control. Possibly, to some extent, natural conditions are aggravated by artificial trading on United States commodity exchanges, but that is not a responsibility of the producers. We are looking into that phase of the problem, and I am sure that all will welcome any relief that can be found in that quarter.

The consumers of the United States do not like it when prices go up, just as you do not like it when prices of your exported commodities go down. We accept it that, in a free system, there are bound to be fluctuations in both directions, and I can assure you that there is no plan afoot to attempt to deal arbitrarily with the problem of prices by imposing some artificial price ceiling.

2. Another matter which I know concerns you is that of wool. The United States Tariff Commission has recommended to the President an increase in the tariff on wool. The President, however, has another plan which he has submitted to Congress which will, it is hoped, adequately support the wool industry of the United States without imposing increased duties on imported wool.[2] The President told me last week that he had no intention of acting favorably on the Tariff Commission's recommendation pending congressional consideration of his own proposal.

3. There has been some speculation with reference to the future of some of our governmental policies, principally with respect to the technical cooperation program and the activity of the Export-Import Bank.

We in the United States consider that the technical cooperation program is an important way of bettering conditions of living elsewhere. It spreads knowledge, and knowledge is the great liberator. The technical cooperation program operates on a modest basis with more dependence on quality than quantity. The quality of its work has, I believe, improved with experience. In Latin America the evidence is that this fact is accepted by the governments concerned, which have multiplied their own financial support of this program and taken over projects for further independent development.

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[1] See *Report to the President and the Congress by the Commission on Foreign Economic Policy, January 23, 1954*; *infra*, pp. 2898–2930.

[2] See statement by the President, Mar. 4, 1954; Department of State *Bulletin*, Mar. 15, 1954, pp. 393–394.

In such fields as public health and agriculture, we can all feel a real satisfaction in the knowledge that these cooperative efforts have assisted in broadening and strengthening the basis for economic development by providing more and better food for a more healthy population.

The Government of the United States firmly supports the continuance of our bilateral technical assistance programs as well as the programs carried on by the Organization of American States.[1]

Much important work in the field of public health and agriculture is done by private organizations, as, for example, the Rockefeller Foundation. It has made an immense contribution of technical knowledge which has assisted Latin American governments in stamping out many forms of disease. It is assisting in promoting agricultural knowledge. The United States Government encourages these private efforts. But also, it intends, at a governmental level, to supplement them.

4. The United States was developed with the help of private foreign capital, and it would like to see its own capital now help to develop the great resources of other countries of this hemisphere. There exists in the United States ample capital which is ready, willing, and able to perform its development function not only at home but also abroad. The spectacular development of Canada during this century has been primarily due to cooperation between the private investors of the United States and those in Canada. Approximately $5 billion of private United States capital have been invested in Canada, and have made a significant contribution to producing for Canada one of the highest standards of living in the world.

We can see here in our host country the results of international cooperation. No one who has spent even a few days in this great and growing city can fail to be impressed by the atmosphere of creative vitality. I am told that nearly $2 billion of private foreign capital have come to Venezuela on a mutually advantageous basis. The results are open for anyone to see.

There are other countries into which substantial United States capital has also flowed. The total of United States private direct investments in Latin America amounts, I believe, to about $6 billion. This is a large figure, particularly when it is borne in mind that domestic capital always provides the greater part of any country's financing. Indeed, I understand that over 90 percent of the total investment undertaken in Latin America is now derived from domestic sources, a happy augury of the growing strength of this great area.

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[1] See *supra,* doc. 20.

Some countries have seen fit to put artificial obstacles in the way of what would be the normal and natural flow of capital between highly developed and less developed countries. That is of course their privilege. In these matters every nation is sovereign. The United States Government has not the slightest desire or intention to extort for its people opportunities which are not freely accorded.

We would, however, like to see the economies of our American friends and neighbors more vigorous than in some cases they are. We would like to see living standards raised, employment increased, and wages such as to provide the workers with greater rewards. For these reasons we hope that no country will impose restrictions which unnecessarily inhibit cooperation for development.

In the United States, private capital and free enterprise constitute the great source of our own economic well-being. That is a source which we do not try to keep at home. It is free to go abroad and we welcome its international activities. Indeed, President Eisenhower, in his recent budget message to the Congress,[1] recommended certain modifications in our tax laws which will encourage our capital and business people to work abroad. However, private capital cannot be driven. It has to be attracted. Therefore, the decision rests with you.

5. There are some development projects which may not be suitable for, or attractive to, private capital—domestic or foreign. The International Bank for Reconstruction and Development, which most of us here participated in establishing and to which the United States has made important capital contributions, is the primary instrument through which the free world can cooperate in the public financing of economic development.

We have also in the United States, in the public financing field, the Export-Import Bank, a national institution of my own government. One important function of this institution will continue to be that of affording export credits either through direct loans or guarantees.

There has been speculation as to whether this bank has withdrawn from the field of economic development. I am glad to be able to clarify this matter.

The Export-Import Bank will consider on their merits applications for the financing of development projects which are not being made by the International Bank and which, in our common interest, are economically sound, are within the capacity of the prospective borrower to repay, and within the prudent loaning capacity of the bank.

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[1] H. Doc. 264, 83d Cong., 2d sess., Jan. 21, 1954.

23. INTER-AMERICAN ECONOMIC COOPERATION: Final Declaration of the Meeting of Ministers of Finance or Economy of the American Republics, December 2, 1954 [1]

We leave this Conference with the satisfaction of having proved that the American nations here represented are in complete agreement as regards their great objectives in the economic field. These may be summarized as a determination to speed up the progress of each and every one of them within the framework of freedom and justice, through substantial intensification of our inter-American economic, financial and technical cooperation.

Naturally, in analyzing the means for obtaining the goal which we are unanimously seeking there were differing points of view as to the most adequate measures for reaching the common objective. We were glad to see the energy and frankness which characterized the discussions. Not one delegation failed to present carefully thought out projects. The energy with which the representatives of the several Governments upheld their respective points of view demonstrated the absolute independence of thought prevailing in this hemisphere, and the interest felt by the Governments in promoting the welfare of their peoples.

The discussions showed also that all the American nations are resolved to grapple with economic problems with the same fervor and resolution with which on different occasions they have attacked common political problems. Further, the American family of nations demonstrated a clear realization of the imperative necessity that the principle of economic cooperation set forth in Article 26 of the Charter of the Organization of American States become a more palpable reality, in order that by close fraternal cooperation, always with scrupulous respect for institutional differences, each can insure that the common effort to conquer the want now afflicting great masses of people in this hemisphere may produce maximum results.

We are convinced that the results of this economic Conference justify holding others of the same kind, and furthermore that the progress which we have here jointly achieved augurs that this meeting will be the first of a series in which at regular intervals the American Republics meet together to weigh the progress which they have achieved separately and collectively in strengthening that great agricultural, industrial, and financial structure which we are raising in the hemisphere and under whose protection we shall progress toward that life to which our natural and human resources give us the right to aspire.

We wish to express our gratitude for the technical cooperation given us during the meeting by the Technical Secretary of the Inter-American Economic and Social Council, the Economic Commission for Latin America, the International Bank for Reconstruction and Development, and the International Monetary Fund.

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[1] *Report of the United States Delegation to the Meeting of Ministers of Finance or Economy of the American Republics as the Fourth Extraordinary Meeting of the Inter-American Economic and Social Council, November 22 to December 2, 1954, Quitandinha, Brazil* (unnumbered Department of State publication; 1954), appendix 16.

We take pleasure in announcing that we have agreed to recommend to our Governments that the next meeting of Ministers of Finance or Economy be held in Buenos Aires in 1956.

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24. UNITED STATES ECONOMIC RELATIONS WITH THE OTHER AMERICAN REPUBLICS: Summary and Appraisal by the United States Delegation to the Meeting of Ministers of Finance or Economy of the American Republics, Quitandinha, Brazil, December 1954 [1]

The position which the United States Delegation took to the Meeting was designed to help strengthen United States economic relations with the other American republics and to do so in ways that could be supported by this Government, on a continuing basis, and thus be durable and dependable. The Delegation found itself confronted with a number of requests from representatives of the Latin American countries that were regarded as impracticable. For example, the United States was asked to assume increased responsibility for maintaining the stability of the prices of Latin American raw materials. It was suggested by some delegations that the United States consult, in advance, in connection with all actions by this Government in the economic field that might adversely affect the interest of the Latin American countries. Some delegations desired that the United States agree not to increase its tariffs or other trade restrictions against their exports but permit them to increase their tariffs in order to facilitate their industrialization. Some sought support for preferential Latin American or inter-American trade arrangements. Some asked assurances of greatly increased aid in financing their economic development programs, pointing out, as has been customary in the past, that the amount of our grant aid to Latin America is not commensurate with that available to other areas.

The United States Delegation expressed the view that in general it is not practicable to attempt to stabilize the prices of international trade commodities by governmental action, but that this Government's determination to maintain a healthy economy should help stabilize the demand for and prices of Latin American exports, since the United States takes approximately half of all Latin American commodities which are sold in international trade. It was also pointed out by the Delegation that United States efforts through technical cooperation and economic development loans to help the Latin American countries diversify their economies should eventually help to lessen their dependence on a few commodities.

With respect to consultation, the Delegation indicated the desire of the United States to discuss with the Latin American countries, where practicable in advance, actions which we might take in disposing of our agricultural surpluses that might adversely affect their interests.

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[1] *Report of the United States Delegation to the Meeting of Ministers of Finance or Economy, etc.,* . . . , pp. 16–18.

With respect to trade restrictions, the Delegation indicated that the United States is prepared, within the limits of the authority established by Congress,[1] to negotiate on a reciprocal basis for a gradual, selective reduction of trade barriers. The Delegation pointed out that it was the intention of the Administration during the coming session of Congress to press for the trade program recommended by the President during the past session.[2] The Delegation also indicated that the United States is prepared to consider, on their merits, proposals made on Latin American initiative looking toward regional trading arrangements, provided they meet certain criteria, especially provision of the maintenance of truly competitive conditions within any trading area that may be established.

Regarding financing of economic development, the Delegation pointed out that the earnings from foreign trade provide the largest source of funds for Latin America's acquisition of capital equipment from abroad and that maintenance of a high level of United States economic activity has facilitated a large volume of trade between Latin America and the United States. The Delegation emphasized that private investment makes up a major part of the international flow of capital for economic development purposes, and that private investment must be attracted by satisfactory treatment. With respect to increasing the amount of public capital available to the Latin American countries, the Delegation referred specifically to our intention of intensifying and increasing the activities of the Export-Import Bank, and it pointed out that the Executive branch planned to seek authorization from Congress to participate in the proposed International Finance Corporation.[3] It stated that with this new organization sources of credit would be available for all sound projects for which external public financing would be required, within the capacity of the borrowing country to service such financing.

The conference also dealt with a number of topics of a less controversial nature—transportation, tourism, technical cooperation, and certain organizational matters on which the United States Delegation and the delegations of the other American republics found little basic difficulty in reaching agreement. The United States Delegation presented a program in the fields of transportation and tourism the adoption and implementation of which should help improve inter-American transportation facilities, reduce transport costs and provide the other American republics with increased income from tourists. It also indicated the willingness of this Government to broaden and strengthen the bilateral technical cooperation program and to increase the United States contribution to the technical cooperation program of the Organization of American States from \$1 million for calendar year 1955 to \$1½ million for calendar year 1956, if such increases, under the program, were desired and matched by the other American republics. The Delegation likewise expressed willingness to accept recommendations that had been made in the documentation which had been prepared for the conference by the Inter-American Economic and Social Council suggesting certain organizational changes in the Council and other ways of improving the Council's work.

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[1] See *infra*, pp. 2888–2892 and 2893–2898.

[2] See *infra*, pp. 2930–2940.

[3] See Treasury Department Announcement, Nov. 11, 1954; Department of State *Bulletin*, Nov. 29, 1954, p. 814.

Notwithstanding the inability of the United States Delegation to agree to some of the proposals advanced by the Latin American delegations, there was recognition of the fact that the United States had gone a considerable distance to meet their viewpoint. This is reflected in the final declaration made by the Ministers of Finance or Economy at the closing session which reads in part as follows:

> "We leave this conference with the satisfaction of having proved that the American nations here represented are in complete agreement as regards their great objectives in the economic field. These may be summarized as a determination to speed up the progress of each and every one of them within the framework of freedom and justice, through substantial intensification of our inter-American economic, financial and technical cooperation.
>
> "Naturally, in analyzing the means for obtaining the goal which we are unanimously seeking there were differing points of view as to the most adequate measures for reaching the common objective . . .
>
> "We are convinced that the results of this economic conference justify holding others of the same kind, and furthermore that the progress which we have here jointly achieved augurs that this Meeting will be the first of a series in which at regular intervals the American Republics meet together to weigh the progress which they have achieved separately and collectively in strengthening that great agricultural, industrial, and financial structure which we are raising in the Hemisphere and under whose protection we shall progress toward that life to which our natural and human resources give us the right to aspire."[1]

[INTER-AMERICAN PARTICIPATION IN THE "ATOMS FOR PEACE" PROGRAM][2]

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[1] *Supra.*

[2] Agreements for cooperation regarding the civil uses of atomic energy have entered into force with the following Latin American countries: Argentina (July 29, 1955); Brazil (Aug. 3, 1955); Chile (Aug. 8, 1955); Colombia (July 19, 1955); Peru (Jan. 25, 1955); Uruguay (Jan. 13, 1956); and Venezuela (July 21, 1955). For a listing of countries within and outside of the Western Hemisphere with which the United States has entered into agreements, see *infra*, p. 2883, footnote 1.

25. THE PAN AMERICAN HIGHWAY: Letter From the President to the Vice President on the Need for Accelerating the Completion of the Inter-American Highway (With Chart Résumé, by Country) April 1, 1955 (Excerpt)[1]

Dear Mr. Vice President: For some time I have had under consideration the desirability of accelerating the completion of the Inter-American Highway which extends from the United States to the Canal Zone via the Central American countries.

The early completion of the Inter-American Highway in close cooperation with the affected countries is a clearly established objective of United States policy.

Although this project has been under construction sporadically since 1934 and the Congress has appropriated funds in the amount of $53,723,000 to date for its completion, the incompleted state of the project prevents realization of maximum benefits.

Recently I have sought the advice of interested agencies of the Government and I am convinced that for economic and political reasons now is the appropriate time to speed completion of the Inter-American Highway. I believe this would be the most significant single action which the United States can take in Central America and Panama to bring about the most mutually advantageous results.

Among the considerations which make me feel that an accelerated construction program on the highway is essential are these:

1. A completed highway will provide a very important contribution to the economic development of the countries through which it passes.
2. There will be an opportunity for increased trade and improved political relations among these countries and the United States.
3. The resultant increase in tourist traffic would not only improve cultural relations but also serve as a very important element in the development of their economies through earnings of foreign exchange.
4. The existence of such an all-weather highway would be of substantial security importance, both in providing overland contact and communication as far southward as the Panama Canal, and in bringing an important physical link between these countries in our common defense of the Western Hemisphere against aggression from without and subversion from within.

The stabilizing effect of these factors will tend to bar any possible return of communism which was so recently and successfully defeated in this area.

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[1] Identical letter sent also to the Speaker of the House of Representatives; Department of State *Bulletin*, Apr. 11, 1955, pp. 595–597. See also statement made by the Vice President on U.S. participation in the construction of the Pan American Highway, at Panamá, Feb. 26, 1955, *ibid.*, pp. 596–597; and map of the principal routes of the Pan American Highway system, *ibid.*, facing p. 596

It is estimated that the amount needed to complete the Inter-American Highway in a three-year period is $112,470,000, of which $74,980,000 would be the share of the United States, leaving $37,490,000 as the combined share of the several cooperating countries on the usual 2:1 matching basis.

. . . .

Sincerely,

DWIGHT D. EISENHOWER

Pan American Highway System [1]

RÉSUMÉ BY COUNTRY (MILES)

Country	*Total* [2]	*Paved*	*All-Weather*	*Dry-Weather*	*Impassable*
Mexico	1, 603	1, 603	......	......	....
Guatemala	317	49	243	......	25
El Salvador	195	174	21	......	....
Honduras	[3] 166	......	166	......	....
Nicaragua	238	131	107	......	....
Costa Rica	412	60	206	13	133
Panama	540	75	264	......	201
Venezuela	616	333	283	......	....
Colombia	[4] 1, 780	402	1, 156	......	222
Ecuador	715	......	608	76	31
Peru	1, 909	1, 117	792	......	....
Chile	1, 482	228	1, 126	128	....
Bolivia	[5] 1, 777	89	1, 438	100	150
Argentina	2, 984	1, 576	535	873	....
Paraguay	[6] 431	45	175	57	154
Uruguay	452	407	5	40	....
Brazil	2, 504	348	2, 065	......	91
Total	18, 121	6, 637	9, 190	1, 287	1, 007

LENGTH OF SOME SECTIONS OF THE PAN AMERICAN HIGHWAY (MILES)

	Total	*Paved*	*All-Weather*	*Dry-Weather*	*Impassable*
From Nuevo Laredo, Mexico, to Panama	3, 171	2, 076	909	......	186
From La Guaira, Venezuela, to Rio de Janeiro (via Santiago, Buenos Aires, Montevideo, and Rio Branco)	8, 100	3, 560	4, 357	152	31

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[1] Chart prepared by the Travel Division, Department of Economic and Social Affairs, Pan American Union.

[2] Overlapping sections along the alternate routes have been eliminated in totaling the mileage in each country.

[3] Includes branch road to Tegucigalpa, 73 miles.

[4] Includes roads from Bogotá to Panamá, Venezuela and Ecuador.

[5] Impassable section bypassed by Alternate Route No. 1.

[6] Does not include proposed route across the Chaco to Bolivia.

26. JURISDICTION OVER FISHING AREAS: Final Act of the Conference on United States–Ecuadoran Fishery Relations, Quito, March 25–April 14, 1953 (Excerpt)[1]

I

The Conference on United States–Ecuadoran Fishery Relations, with reference to Agenda Point 1,[2]

RECORDS: That it has received information from and views of the Delegations on the questions which have arisen as a result of the seizures of the United States fishing vessels *Notre Dame*, *Sun Pacific*, *Equator*, and *Venus*.

II

The Conference on United States–Ecuadoran Fishery Relations, with reference to Agenda Point 2,[3]

AGREES: That the principal causes of the difficulties which have characterized United States–Ecuadoran fishery relations include: [4]

1. The difference in views of the Governments of the United States and Ecuador with respect to the principles of international law applicable to the extent of territorial waters and the measurement thereof.
2. The difference in views of the Governments of the United States and Ecuador with respect to the principles of international law applicable to innocent passage of fishing vessels.
3. The withdrawal of the privilege of obtaining licenses valid for fishing in Ecuadoran territorial waters on the continental coast.
4. The withdrawal of the privilege of obtaining licenses by radio to fish in Ecuadoran waters.
5. The current United States Government system of issuing clearances bearing the destination "high seas" and the use of these clearances and of "via la pesca" by United States fishing vessels.

III

The Conference on United States–Ecuadoran Fishery Relations, with reference to Agenda Point 3,[5]

CONSIDERING: That the Conference in analyzing the causes of difficulties in the fishery relations between the United States and

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[1] Department of State *Bulletin*, May 25, 1953, pp. 759–761.

[2] "Questions which have arisen as a result of the seizures of fishing vessels of the United States of America." [Footnote in original.]

[3] "Examination *in toto* of the acts which caused the difficulties which have characterized United States–Ecuadoran fishery relations." [Footnote in original.]

[4] An article "U. S. Policy on Fisheries and Territorial Waters" by William C. Herrington, chairman of the U. S. delegation to this conference (Department of State *Bulletin*, June 30, 1952, pp. 1021–1023) is useful as background material; also see "Recent Developments Affecting the Regime of the High Seas," *infra*.

[5] "Ways and means of bringing about greater cooperation in fishery matters of mutual interest and to the benefit of the two countries." [Footnote in original.]

Ecuador, in connection with the seizures of the fishing vessels *Notre Dame*, *Sun Pacific*, *Equator* and *Venus*, studied the points of view of the two countries with respect to territorial waters and innocent passage;

That the Conference heard the statements of the United States and Ecuadoran Delegations with respect to the legislation and jurisprudence of their respective countries relating to territorial waters and innocent passage;

That the Conference noted the substantial differences in the positions of the two countries; and

That the powers of the Delegations do not extend so far as reconciling these differences or recommending measures in the international field which would affect world interests;

AGREES: That it is not within its competence to resolve differences in legal dispositions and juridical concepts of the United States and Ecuador regarding territorial waters and innocent passage, the principles of which in any event are not susceptible of bilateral determination since these principles are matters for determination only by the general agreement of maritime States.

IV

The Conference on United States–Ecuadoran Fishery Relations, with reference to Agenda Point 3,

RESOLVES: To take note that natural and juridical persons and other organizations of foreign nationality which conduct fishery operations on land or sea areas under Ecuadoran jurisdiction, are required, in their relations with Ecuador, to subject themselves to Ecuadoran fishing laws, decrees, and regulations.

V

The Conference on United States–Ecuadoran Fishery Relations, with reference to Agenda Point 3,

RECOMMENDS:

1) That as an interim measure and as soon as may be convenient the validity of fishing licenses issued to United States vessels by the Government of Ecuador be extended to include the territorial waters of her continental coast.[1]

2) That as an interim measure and as soon as may be convenient fishing licenses be granted by radio by Ecuador, subject to adequate controls.[1]

3) That the United States Government review as soon as may be convenient its current law and practice with respect to

a) Clearances for United States fishing vessels with destination

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[1] Subsequently authorized by Ecuador.

"the high seas", including "via la pesca", and "touch and trade", and

b) Professional qualifications of officers and condition of navigability, supplies, and so forth, of fishing vessels with such destination, in order to determine what modifications may be needed to obviate or minimize problems in the territorial waters of Ecuador.

4) That, being convinced that there are other measures to be considered which will promote the solution of problems and development of activities beneficial to both the United States and Ecuador, a second conference on fishery relations be held as soon as practicable, preferably by the end of May, 1953 in the United States, to deal with the following agenda: [1]

a) The advantages and disadvantages to be achieved by making permanent the measures recommended under 1) and 2) above, relating to licenses to fish including Ecuadoran continental waters, and to the issuance by radio of licenses to fish, to determine what modifications might be needed.

b) Consideration of possible changes in law and practice in the United States concerning the issuance of clearances to United States fishing vessels bearing destination "the high seas", "via la pesca", and "touch and trade".

c) The granting to fishing vessels holding fishing permits for Ecuadoran territorial waters the same port privileges granted to merchant vessels.

d) The granting to fishing vessels not holding such fishing permits, of port privileges under circumstances of necessity, and a point by point clarification of the privileges and responsibilities of vessels permitted such entry.

e) The possibility of the Governments or private interests of the United States or Ecuador establishing a fueling station in Ecuadoran territory on the Island of San Cristobal of the Colon Archipelago, or on whatever other island is more suitable, to take care of fueling requirements of the merchant and fishing fleets of the United States and Ecuador in accordance with existing regulations.

f) The developing of measures for effective interchange of information concerning fishery laws, decrees, and regulations of the two countries affecting foreign fishing vessels.

g) Consideration of the objectives and research program of the Inter-American Tropical Tuna Commission [2] and the advantages which might accrue to Ecuador through adherence to the Inter-American Tropical Tuna Convention.

h) Consideration of other problems and activities, the inclusion of which shall be agreed upon by the Governments of both countries.

5) That the Governments of the United States and Ecuador study the possibility of periodic meetings for the analysis of their fishery

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[1] This conference had not been held as of Dec. 31, 1955.

[2] Established in 1950 under the Inter-American Tropical Tuna Convention between the United States and Costa Rica, May 31, 1949; entered into force Mar. 3, 1950 (TIAS 2044; 1 UST 230).

problems and for the consideration of recommendations derived therefrom.

6) That the Governments of the United States and Ecuador investigate means to embody in a fishery convention the results achieved at this Conference together with other ways and means of bringing about greater cooperation in fishery matters of mutual interest and benefit to the two countries.

. . . .

27. RECENT DEVELOPMENTS AFFECTING THE REGIME OF THE HIGH SEAS: Address by the Legal Adviser[1] of the Department of State, May 13, 1955[2]

At no time during more than a century have those areas of international law relating to the rights of states in the waters outside their land limits been the subject of such concern as they are at the present time. I have thought it would be of interest to consider this evening what those rights are, the developments that challenge them, and the position of the United States respecting them.[3]

History has a way of repeating itself, and, since the development of this phase of the law has a bearing on our current problems, I ask this learned group to bear with me while I recall some historic facts.

DEVELOPMENT OF LAW OF THE SEA

The history of the law of the sea is a reflection of the changing interests of the centuries and of the influence of economics and technological developments. Most important maritime states, at one time or another, have claimed sovereignty over large areas of the seas.

The Roman Empire claimed the Mediterranean as *Mare Nostrum*. In later centuries Venice levied tribute on vessels navigating the Adriatic. Genoa claimed sovereignty of the Ligurian Sea.

England's claim to sovereignty of the "English Sea" has been characterized as "in a class by itself." This, Selden in 1635 described as "that [sea] which flows between England and the opposite shores and ports," which would include at least the North Atlantic, the North Sea, and the English Channel.

No more modest were the conflicting claims of Spain and Portugal, resolved by Pope Alexander in 1493 by partitioning the Atlantic Ocean between them.

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[1] Herman Phleger.

[2] Address made before the American Branch of the International Law Association, New York, N. Y.; Department of State *Bulletin*, June 6, 1955, pp. 934–940. Unless bracketed, the footnotes following appear in the original.

[3] [The position of the United States as stated in this address was substantially the position as set forth by the U.S. delegations to the Santiago Negotiations on Fishery Conservation Problems Among Chile, Ecuador, Peru and the United States, Sept. 14–Oct. 5, 1955 (see *infra*); to the Third Meeting of the Inter-American Council of Jurists, México, D. F., Jan. 17–Feb. 4, 1956; and to the Inter-American Specialized Conference on "Conservation of Natural Resources: The Continental Shelf and Marine Waters," Ciudad Trujillo, Mar. 15–28, 1956.]

Such was the situation when Grotius, in 1609, published "*Mare Liberum*," attacking on broad grounds of equity the whole principle of national dominion over the seas. Although Selden's "*Mare Clausum*," in 1635, sought to establish that the sea was capable of appropriation and that England was sovereign in the English Sea, it did not prove to be an adequate answer to Grotius. As one author observes, "The reason why '*Mare Liberum*' acquired a historical significance . . . was its earnest and powerful appeal for complete freedom of the high seas for the innocent use and mutual benefit of all." The same author continues: "Grotius spoke in the name of humanity as against the selfish interests of a few. It was his lofty moral ideas which, in combination with the profound legal and historical exposition, gave his work its reputation." [1] With "*Mare Liberum*" the modern doctrine of the freedom of the seas had been born. During the early 18th century it was to become established law, and by the 19th century it was axiomatic.

Freedom of the seas as a principle of international law means that the open sea is not, and cannot be, under the sovereignty of any state. It signifies that in time of peace vessels may not be interfered with on the high seas. To this principle there are certain limited exceptions. Thus, it has long been recognized that a state may suppress piracy. It may seize a vessel flying its flag without authority. The right of hot pursuit is accepted. The enforcement, on the part of coastal states, of revenue and sanitary laws is recognized.[2] Finally, in this modern age, the right of a state, for defense or security purposes, to take preventive measures on the high seas is in process of development.

U. S. Supports Freedom of the Seas

It is the traditional policy of the United States to support the principle of freedom of the seas. Early in its history its refusal to compromise that principle was one of the causes leading to the War of 1812. The effective defense of the United States, the maintenance of its commercial shipping and air transport, and the prosperity of its fishing industry would all be prejudiced by any serious compromise of this principle.

The appropriation by any state of areas of the high seas is as unsound morally today as when Grotius wrote. In an age when technological advancement and increased population have made us indeed one world, it is more important than ever that those natural avenues of intercourse between peoples—the sea lanes and the air routes above—should remain free.

Attacks on Freedom of the Seas

Nevertheless, the freedom of the seas is under serious attack. It might be expected that, as in the past, attempts to bring large areas of the high seas under national domination would originate with powerful and maritime states. But the contrary is the case. Today the attempts to encroach upon the freedom of the seas are being made for the most part by small coastal states.

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[1] Meyer, *The Extent of Jurisdiction in Coastal Waters* (1937), p. 23.

[2] Oppenheim, *International Law* (7th ed. by Lauterpacht, 1948), p. 450.

These attempts take various forms. Some states enlarge the area of their inland waters by drawing lines from headland to headland and then, from this baseline, which may be many miles at sea, measuring the width of their territorial waters. Others simply extend the width of their territorial waters by decree. More recently, a favored technique has been to claim exclusive sovereignty over the waters above the Continental Shelf and beyond territorial waters. Some claims to territorial waters extend to a breadth of 200 miles.

On August 18, 1952, Peru, Chile, and Ecuador signed a declaration claiming "exclusive jurisdiction and sovereignty" over waters contiguous to their coasts "up to a minimum distance of 200 nautical miles" as well as "exclusive sovereignty" over the subsoil and seabed in this maritime zone.[1] The declaration purports further to make provision for regulating fishing and whaling in this zone. The United States protested these claims on the ground that under international law there is no obligation to recognize claims to territorial waters in excess of 3 miles.

Other South American states, including Argentina, Honduras, and El Salvador, have also claimed large areas of the high seas as territorial waters.[2]

In 1952 Korea, by Presidential proclamation, asserted sovereignty over the seas adjacent to its coasts.[3] There are indications that the Philippines may claim the Sulu Sea as territorial waters.[4]

U. S. ADHERES TO 3-MILE LIMIT

Consistent with its support of the principle of the freedom of the seas, the United States has always adhered to the 3-mile rule. From the time of Jefferson, the principle that the marginal belt extends one marine league (3 geographical or nautical miles) from the low-water mark has been supported by the State Department, by court decisions, and by treaties.

Recently in the Submerged Lands Act, approved May 22, 1953,[5] the Congress declared that the boundaries of the coastal states are limited to 3 geographical miles into the Atlantic and Pacific Oceans. By the same act, the Congress left the states bordering the Gulf of

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[1] [Conferencia de Explotación y Conservación de las Riquezas marítimas del Pacífico Sur: Declaración sobre Zona Marítima (Annex 19; República del Peru, *Memoria del Ministro de Relaciones Exteriores . . . 4 de Agosto de 1952–27 de Julio de 1953* (Lima, 1954), pp. 70–72).]

[2] [Respecting Argentine legislation in this field, see the Argentine Decree No. 1386, Jan. 24, 1944 (English-language translation in *Laws and Regulations on the Regime of the High Seas*, vol. I (United Nations publication ST/LEG/SER.B/1; 1951), pp. 3–4) and Decree No. 14708, Oct. 11, 1946 (*ibid.*, pp. 4–5); for Honduras, see the Honduran Congressional Decree No. 102, Mar. 7, 1950 (*ibid.*, pp. 11–12) and Congressional Decree No. 103, Mar. 7, 1950 (*ibid.*, p. 12); for El Salvador, see article 7 of the Political Constitution of El Salvador, adopted Sept. 7, 1950 (*ibid.*, pp. 300–301).]

[3] [Presidential Proclamation of Jan. 18, 1952.]

[4] [As of the end of calendar year 1955, no official public action had been taken in this direction.]

[5] 67 Stat. 29.

Mexico free to establish historic claims to boundaries extending more than 3 geographical miles, but limited such boundaries, if established, to 3 marine leagues from the coast.

The tendency of states to advance claims to territorial waters in excess of 3 miles has been particularly marked following the failure of the Codification Conference in 1930 at The Hague to agree on a convention on territorial waters.[1] However, states still adhering to the 3-mile rule represent about 80 percent of the merchant shipping tonnage of the world and most of its naval power.

Position of U. S. on International Law Question

The position of the United States is shown in its comments on the Draft Articles on the Regime of the Territorial Sea of the International Law Commission,[2] which includes the following:

> So far as concerns the question of the breadth of the territorial sea . . . the guiding principle of the Government of the United States is that any proposal must be clearly consistent with the principle of freedom of the seas. . . .
>
> That the breadth of the territorial sea should remain fixed at three miles, is without any question the proposal most consistent with the principle of freedom of the seas. The three-mile limit is the greatest breadth of territorial waters on which there has ever been anything like common agreement. Every one is now in agreement that the coastal state is entitled to a territorial sea to that distance from its shores. There is no agreement on anything more. . . . A codification of the international law applicable to the territorial sea must, in the opinion of the Government of the United States, incorporate this unique status of the three-mile limit and record its unquestioned acceptance as a lawful limit.
>
> This being established, there remains the problem of ascertaining the status of claims to sovereignty beyond the three-mile limit. The diversity of the claims involved bears witness . . . to the inability of each to command the degree of acceptance which would qualify it for possible consideration as a principle of international law. . . . A codification of the international law applicable to the territorial sea should, in the view of the Government of the United States, record the lack of legal status of these claims.[3]

The International Court of Justice made clear in the Norwegian Fisheries case that the delimitation of territorial waters is not a matter dependent merely upon the will of the coastal state but that "the validity of the delimitation with regard to other States depends upon international law." [4]

Conservation of Fishery Resources

But while the United States does not consider that claims to territorial waters in excess of 3 miles have validity, with the possible exception of historic ones generally acquiesced in, it does not consider that the considerations which motivate such claims can or should be ignored. What are these considerations? While oversimplification is dangerous, it is suggested that they relate to fishery resources. As one authority has put it, "the fishery question has been the focal point of the whole problem of territorial waters from its very beginning." [1]

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[1] [For the records of the portion of the 1930 Codification Conference dealing with the question of territorial waters, see vol. III, "Minutes of the Second Committee," of the *Acts of the Conference* (League of Nations doc. C. 351 (b). M. 145 (b). 1930. V).]

[2] *Report of the International Law Commission Covering the Work of Its Sixth Session, 3 June–28 July, 1954* [*supra*, pp. 302–321].

[3] Regime of the Territorial Sea, Comments by Governments on the Provisional Articles concerning the Regime of the Territorial Sea adopted by the International Law Commission at its sixth session, U. N. doc. A/CN.4/90, 29 Mar. 1955, pp. 33, 34–35; Department of State *Bulletin*, Apr. 25, 1955, p. 699.

[4] International Court of Justice *Reports*, Judgment of Dec. 18, 1951, pp. 116, 132.

With those states which are concerned over the depletion of high seas fisheries and desire to take measures for their conservation, the United States has every sympathy. The *dictum* of Grotius that the resources of the sea are inexhaustible has long since been recognized as unsound. As long ago as the Bering Sea arbitration [2] the United States asserted that unrestricted destruction of the living resources of the sea—in that case, fur seals—was contrary to good morals. The United States is a party to more treaties and agreements having for their objective the conservation of the resources of the sea than any other country.

On September 28, 1945, President Truman issued his proclamation on fisheries for the purpose of "improving the jurisdictional basis for conservation measures and international cooperation in this field." [3] This declares the policy of the United States on the establishment of fishery conservation zones in the high seas contiguous to its coasts. Where such fishing activities are maintained by United States nationals alone, it regards it as proper that regulation be exercised by the United States exclusively. But where the fishing activities have been legitimately developed and maintained jointly by nationals of the United States and nationals of other states, conservation zones may be established by agreement between the United States and such other states.

This proclamation has been misunderstood by some as implying a claim to exclusive fishing rights for United States nationals in the waters off its coasts. The proclamation asserts no such claim, and such is not the position of the United States.

As the Secretariat of the United Nations has pointed out in its Memorandum on the Regime of the High Seas: "There is a fundamental difference between the United States Proclamation on Fisheries and the Latin American texts which have followed it." [4] President Truman's proclamation specifically stated that "The character as high seas of the areas in which such conservation zones are established and the right to their free and unimpeded navigation are in no way thus affected." The sole purpose of the proclamation was to make possible by appropriate legal means the prevention of the depopulation and destruction of international fishing grounds.

Notwithstanding this, the United States proclamations on fisheries and on the Continental Shelf have been used by some states as a justification for attempts to extend their sovereignty over large areas of the high seas. The International Law Commission of the United Nations no doubt had these measures in mind when it pointed out in connection with its draft articles on fisheries adopted at its fifth session (1953) that regulations issued by a state for the conservation of fisheries in any area of the high seas outside its territorial waters are binding only upon its nationals and that such unilateral measures resulting in the total exclusion of foreign nationals are "in disregard of the law as it stands at present."[1]

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[1] Riesenfeld, *Protection of Coastal Fisheries under International Law* (1942), p. 3.

[2] [See John Bassett Moore, *History and Digest of International Arbitrations to Which the United States Has Been A Party, etc.*, vol. I (Washington, 1898), pp. 755–961.]

[3] Department of State *Bulletin*, Sept. 30, 1945, p. 486 [10 *Fed. Reg.* 12304].

[4] U.N. doc. A/CN.4/32, July 14, 1950, p. 47.

INTERFERENCE WITH FISHING ON THE HIGH SEAS

So far as the United States is concerned, the immediate impact of these claims of South American states has fallen upon its fishing industry, whose vessels fish in the Pacific as far south as Peru. There has resulted a series of incidents ranging from molestation of American fishing vessels by local authorities at points far off the coast, to the seizure of the craft and their detention until heavy fines are paid.

To insure that these losses should not fall upon private persons, the Congress on August 27, 1954, enacted a statute providing that, where a United States flag vessel is seized by a foreign country on the basis of claims in territorial waters or the high seas not recognized by the United States and a fine must be paid in order to secure a release of the vessel and crew, the owners shall be reimbursed by the Treasury upon certification by the Secretary of State.[2] Several claims for such reimbursement are pending at the present time.

Perhaps the most conspicuous example of the efforts to enforce claims of sovereignty to the high seas was the seizure last November by Peruvian war vessels and aircraft of five whaling vessels owned by A. S. Onassis flying the Panamanian flag. According to information furnished by Panama to the Organization of American States, two of the vessels were captured approximately 160 miles off the Peruvian coast; two others were attacked with bombs and machinegun fire by Peruvian naval and air units while 300 miles off the coast; and later the factory vessel was attacked by a Peruvian plane 364 miles offshore. These vessels were taken into a Peruvian port and detained until fines of $3 million were paid. Insurance against this hazard was held by Lloyd's (90 percent) and by insurers in the United States (10 percent). Panama, the United Kingdom, and the United States protested to Peru concerning the incident.

On March 27, 1955, Ecuador seized two American flag fishing vessels, the *Arctic Maid* and *Santa Ana,* some 14 to 25 miles west of the Island of Santa Clara off the Ecuadoran coast. In the course of the seizure, an American seaman was seriously wounded by gunfire from an Ecuadoran patrol vessel. Although the United States made a strong protest against these illegal acts, fines of more than $49,000 were imposed on the two vessels.

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[1] *Report of the International Law Commission Covering the Work of Its Fifth Session, 1 June–14 August 1953*, U.N. doc. A/2456, p. 17.

[2] 68 Stat. 883.

UNITED NATIONS ACTIVITIES IN THIS FIELD

The draft articles on fisheries prepared by the International Law Commission of the United Nations have not yet been considered by the General Assembly. However, the Assembly at its ninth session (1954) convoked an international conference to consider the economic and technical aspects of the living resources of the high seas to meet in Rome on April 18 of this year.[1] It is hoped that this conference will recommend measures for the regulation and conservation of high seas fisheries that will satisfy the legitimate interests of coastal states while at the same time preserving the freedom of the seas.

PROCLAMATION ON THE CONTINENTAL SHELF

On September 28, 1945, the same date as his proclamation on fisheries, President Truman issued another proclamation which is also important in any consideration of this subject. This is the proclamation on the Continental Shelf.[2]

It sets forth the view of the United States that the exercise of jurisdiction over the natural resources of the subsoil and seabed of the Continental Shelf by the contiguous nation is reasonable and just for the following reasons:

1. The effectiveness of measures to use or conserve these resources would be contingent upon cooperation and protection from the shore;
2. The Continental Shelf may be regarded as an extension of the land mass of the coastal nation and thus naturally appurtenant to it;
3. The resources under the shelf frequently form a seaward extension of a pool or deposit lying within the territorial limits; and
4. Self-protection compels a coastal nation to keep close watch over the activities off its shores which are necessary for utilization of these resources, i.e., drilling and mining operations.

In the interest of law and order, jurisdiction over the activities in these offshore areas should be determined. It is submitted that it is reasonable that this jurisdiction should inhere in the coastal state since these activities must receive cooperation and protection from the shore and they affect the safety of the coastal state.

The proclamation declares that the United States regards the natural resources of the subsoil and seabed of the Continental Shelf as appertaining to the United States and subject to its jurisdiction and control. Where the shelf extends to the shore of another state, the boundary is to be determined by the interested parties on equitable principles. Finally, the proclamation declares, "The character as high seas of the waters above the continental shelf and the right to their free and unimpeded navigation are in no way thus affected."

The draft articles on the Continental Shelf prepared by the International Law Commission describe the rights of the coastal state over the shelf as "sovereign rights for the purpose of exploring and exploiting its natural resources," thus recognizing that the rights are over the shelf and not merely over its resources. The term "sovereign rights" was preferred by the drafters over the expressions "jurisdiction and control" advocated by some nations and "rights of sovereignty" preferred by others. In explanation, the International Law Commission stated that the formulation "sovereign rights" rather than "sovereignty" was employed in an effort "to avoid language lending itself to interpretations alien to an object which the Commission considers to be of decisive importance, namely, safeguarding the principle of the full freedom of the superjacent sea and the airspace above it." [1]

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[1] Department of State *Bulletin*, Jan. 10, 1955, p. 64, and Apr. 25, 1955, p. 696. [U. N. International Technical Conference on the Conservation of the Living Resources of the Sea, Rome, Apr. 18–May 10, 1955]

[2] *Ibid.*, Sept. 30, 1945, p. 485 [10 *Fed. Reg.* 12303].

This principle is made clear in the Truman proclamation and is reaffirmed in the Outer Continental Shelf Lands Act (Sec. 3 (b)), which provides:

> . . . the character as high seas of the waters above the outer continental shelf and the right of navigation and fishing therein shall not be affected.[2]

The principle is also declared in articles 3 and 4 of the International Law Commission's 1953 draft, which state that the rights of the coastal state over the Continental Shelf do not affect the legal status of the superjacent waters as high seas or the legal status of the airspace above the superjacent waters.[3]

The term "Continental Shelf" is not defined in the Truman proclamation. However, the accompanying White House press release [4] stated that generally the subsoil and seabed of the submarine areas contiguous to the coasts of the United States was considered to be limited to submerged land covered by no more than 100 fathoms (600 feet) of water. This limitation—defined in article 1 of the International Law Commission's draft as 200 meters—would seem to cover all practicable needs for the foreseeable future and to have the advantage of definiteness. If future technical advances should render this formulation inadequate, it can be reconsidered in the light of intervening experience.

That the principles of the Truman proclamation on the Continental Shelf were considered fair and reasonable is evidenced by the fact that no nation protested the claim and that it has been followed by similar claims by numerous other states. Certain United Kingdom practice and the pronouncements with respect to the Persian Gulf are comparable, in considerable measure, to the Truman proclamation. The Latin American practice differs, however, as I will now point out.

ERRONEOUS APPLICATION OF CONTINENTAL SHELF DOCTRINE

Following the United States proclamation, Mexico announced its claim to the adjacent Continental Shelf and its natural resources and also announced that it would "proceed to supervise, utilize and control the zones of fishing protection which are necessary for the conservation of this source of well-being." [1]

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[1] *Report of the International Law Commission, Fifth Session* (cited *ante*), pp. 12, 14.

[2] 67 Stat. 462.

[3] *Report of the International Law Commission, Fifth Session* (cited *ante*), p. 12.

[4] Department of State *Bulletin*, Sept. 30, 1945, p. 484.

The Argentine Presidential decree of October 1946,[2] broadening an earlier decree of 1944,[3] proclaimed Argentina's sovereignty over both the Continental Shelf and its sea. While it recognizes the right of free navigation in the sea above the shelf, this would appear to mean no more than a right of innocent passage. The Argentine decree asserts that the United States has proclaimed its sovereignty both over the shelf and the peripheral epicontinental sea. This assertion is not, of course, accurate, for the United States stated specifically that the proclamation did not affect the status as high seas of the waters above the shelf.

In June 1947, Chile proclaimed its sovereignty over the Continental Shelf at whatever depth and over all of the waters adjacent to its coasts to the full extent necessary to reserve, protect, conserve, and make use of the natural resources within or below those seas.[4] It referred specifically to the control of fisheries and as a first step announced a protection zone "at present" extending 200 nautical miles from the coast.

Chile sought to justify these claims by asserting that the United States, Mexico, and Argentina had already proclaimed their sovereignty over the shelf and seas adjacent to their coasts. Clearly, this assertion misapprehends the United States position and apparently employs the Continental Shelf principle only as an argumentative concept, for Chile has a very narrow Continental Shelf.

Peru, also with a narrow Continental Shelf, followed the Chilean form of proclamation.[5] Costa Rica, in 1948, by decree-law followed the Chilean pattern.[6]

Ecuador, as a party to the Santiago Conference declaration of 1952,[7] claims sovereignty to a distance of 200 miles seaward and over the seabed regardless of depth.

In 1950 Honduras [8] claimed the Continental Shelf and the waters above as national territory, and in 1951 claimed protection and control over the Atlantic Ocean within 200 miles from the low-water line.

Certain states in support of their claims have referred to two multilateral pronouncements of the American Republics—the Declarations of Panama [1] and the Inter-American Treaty of Reciprocal Assistance.[2]

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[1] [Presidential Declaration, Oct. 29, 1945 (English language text in *Laws and Regulations on the Regime of the High Seas*, vol. I (United Nations publication ST/LEG/SER.B/1; 1951), pp. 13–15).]

[2] [Decree No. 14708, Oct. 11, 1946; *ibid.*, pp. 4–5.]

[3] [Decree No. 1386, Jan. 24, 1944; *ibid.*, pp. 3–4.]

[4] [Presidential Declaration, June 23, 1947; *ibid.*, pp. 6–8.]

[5] [Presidential Decree No. 781, Aug. 1, 1947; *ibid.*, pp. 16–18.]

[6] [Decree No. 190, Sept. 28, 1948; *ibid.*, pp. 8–9.]

[7] [Conferencia de Explotación y Conservación de las Riquezas marítimas del Pacífico Sur; Declaración sobre Zona Marítima (Annex 19; República del Peru, *Memoria del Ministro de Relaciones Exteriores . . . 4 de Agosto de 1952–27 de Julio de 1953* (Lima, 1954), pp. 70–72).]

[8] [Congressional Decrees Nos. 102 and 103, Mar. 7, 1950; *ibid.*, pp. 11–12.]

The first delimited certain areas of the high seas adjacent to the American Continent in which the participants declared their interest as a matter of self-defense. The latter merely described an area in which aggressive action activated certain provisions of the treaty. But neither of these furnishes a foundation for the unilateral assertion by a coastal state of sovereignty over the high seas.

It seems evident that the states making these excessive claims realize the insecurity of their legal justification. Apart from reference to these two inter-American pronouncements of an entirely different character, this is indicated by the imprecise nature of their definition: the attempts to justify them on the basis of similar action by other states with similar objectives, and the obvious misapprehension of the United States proclamations where cited as a justification.

NO INCONSISTENCY WITH FREEDOM OF SEAS

It is submitted that the doctrine of the Continental Shelf is in no way inconsistent with the principle of the freedom of the seas. The 1945 proclamations on the Continental Shelf and the Outer Continental Shelf Lands Act make perfectly clear that the claims of the United States in the shelf are not intended to modify in any way the freedom of the superjacent waters.

While, as stated in the 1950 report of your learned society, the Continental Shelf theory fills the gap in international law on this subject,[3] the application of the new theory will create many legal problems the definitive answers to which will only become apparent with time and experience.

The principle of the freedom of the seas is as valid today as when it was established. It is even more necessary now that these highways of communication be kept open. We cannot return to the Middle Ages or the days of the Barbary pirates, when coastal states exacted tribute for rights of navigation. Nor can we return to those days when strong and enterprising states appropriated the resources of the seas by appropriating the seas themselves.

If the resources of the sea have become more important because of the needs of increased populations for food and the decrease in such resources due to wasteful exploitation, the answer is not to be found in disregarding existing international law by unilateral extension of territorial waters or new definitions of such waters. Nor is the answer to be found in the exaction of tribute for the right to fish on the high seas. Such actions have already gone far toward upsetting otherwise good relations between states.

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[1] [Res. XIV, Oct. 3, 1939; *Report of the Delegate of the United States of America to the Meeting of the Foreign Ministers of the American Republics, Panama, September 23–October 3, 1939* (Department of State publication 1451; 1940), pp. 62–66.]

[2] [*Supra*, pp. 789–796.]

[3] *Report of the Forty-fourth Conference, Copenhagen, 1950,* International Law Association (1952), p. 132.

The alternative is a program of conservation of fisheries—the application by international agreement of control based on scientific principles. While due recognition must be given to the special interest of the coastal state in the resources off its coasts, the rights of the other members of the international community must also be respected.

The same principle should govern the application of the doctrine of the Continental Shelf. The right of the coastal state to the resources of its Continental Shelf cannot be made an excuse for reduction of the high seas above the shelf to the sovereignty of the coastal state, and any exploitation of its resources must be so conducted as to result in a minimum interference with the common use of the superjacent seas.

28. FISHERY CONSERVATION PROBLEMS: Article on the Conference Between Chile, Ecuador, Peru, and the United States at Santiago, Chile, September 14–October 5, 1955 [1]

Representatives of the United States met with representatives of Chile, Ecuador, and Peru at Santiago, Chile, from September 14 to October 5, 1955, to negotiate an agreement for the conservation of fishery resources of the eastern Pacific. While considerable progress was made in clarifying the views and interests of the parties to the negotiations, the delegations encountered basic problems which stood in the way of reaching agreement and led to the suspension of the negotiations in order that further consideration might be given to those problems in the respective governments.

Behind these negotiations lay a legal controversy between the United States and the Governments of Chile, Ecuador, and Peru with respect to the claims of the three South American countries to exclusive sovereignty over a so-called maritime zone extending not less than 200 miles off their coasts. Claims over such an area had been advanced by Chile and Peru individually in 1947.[2] In August 1952 the Declaration of Santiago was signed by the three South American countries stating 200-mile claims in a joint manner and pledging themselves to collaborate for the protection of maritime resources in the area.[3] Later they agreed not to enter into any international agreements affecting these claims without the concurrence of the other parties to the Declaration. It was because of this pledge that the United States, which first proposed such negotiations to the Government of Ecuador, agreed to negotiate simultaneously with all three South American Governments.

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[1] Department of State *Bulletin*, Dec. 19, 1955, pp. 1025–1030. Footnotes which follow are in the original, unless bracketed. See also *Santiago Negotiations on Fishery Conservation Problems* (Department of State unnumbered publication; 1955), which includes, in addition to this article, the conference documents.

[2] [See the Chilean Presidential Declaration of June 23, 1947 (*Laws and Regulations on the Regime of the High Seas*, vol. I (United Nations publication ST/LEG/SER.B/1; 1951), pp. 6–8) and the Peruvian Presidential Decree No. 781 of Aug. 1, 1947 (*ibid.*, pp. 16–18).]

[3] [Conferencia de Explotación y Conservacíon de las Riquezas marítimas del Pacífico Sur: Declaración sobre Zona Marítima (Annex 19; República del Peru, *Memoria del Ministro de Relaciones Exteriores . . . 4 de Agosto de 1952–27 de Julio de 1953* (Lima, 1954), pp. 70–72).]

Despite United States protests against the claims of the three countries, which were directly in conflict with the well-established principle of the freedom of the seas, various actions by Ecuador and Peru sharpened the legal controversy. Fishing vessels of U.S. registry operating on the high seas off the coasts of Ecuador and Peru during 1954 and 1955 were seized and subjected to fines or taxes, or were otherwise molested. These incidents culminated in the seizure in March 1955 of two U.S. fishing vessels some 25 miles from the coast by an Ecuadoran patrol boat, in the process of which an American seaman was seriously wounded by gunfire.

Various high officials of the Governments of Chile, Ecuador, and Peru assured representatives of the United States that the sole purpose of the claims to sovereignty over the high seas set forth in the Santiago Declaration was to insure the conservation of the living resources of the sea which the three coastal countries considered essential to their economic development and their future welfare. The United States, in accordance with its well-established policy of promoting the conservation of fishery resources, therefore made a dual proposal to the three countries in a note handed to their Foreign Offices by the U.S. Embassies on May 13, 1955. In this note the United States proposed that the dispute over the claims by those countries to sovereignty and jurisdiction over the ocean to a distance of 200 miles from their shores be submitted to the International Court of Justice, and that negotiations be entered into between representatives of the three countries and the United States for the conclusion of an agreement for the conservation of fishery resources in which the four countries had a common concern. Such an agreement would not refer to the extent of territorial waters.

In their response to this note, the three South American countries on June 3, 1955, replied that they were not prepared to consider at the time whether or not the legal controversy should be submitted to the International Court of Justice (none of them having accepted the compulsory jurisdiction of the Court) but that they were prepared to initiate jointly the proposed negotiation of a conservation agreement.

U.S. AGREES TO NEGOTIATIONS

In a further note handed to the three Governments on July 9, 1955, the United States expressed regret at the unreadiness of the South American countries to submit the legal controversy to the International Court of Justice. The United States agreed nevertheless to open negotiations with the three countries for an agreement for the conservation of fishery resources of the eastern Pacific Ocean in general conformity with the conclusions on technical aspects of fishery conservation approved by the United Nations International Technical Conference on the Conservation of the Living Resources of the

Sea (Rome, April 18–May 10, 1955).[1] It was stated specifically that any such agreement would have to be drafted without reference to the claims of any of the four Governments with respect to territorial waters or other forms of special jurisdiction over the seas adjacent to their coasts.

After the formal opening of the negotiations on September 14, 1955, by His Excellency Rear Admiral Kare Olsen Nielsen, Foreign Minister of Chile, the question of how to proceed with the negotiations was discussed. The U.S. delegation proposed the following three points, to be discussed in the order indicated:[2]

1. Consideration of the principal fishery conservation problems of the southeast Pacific of concern to the participating governments;
2. Examination of existing types of conservation measures and procedures that might be useful in solving these problems;
3. Type of agreement that would be required for satisfactory resolution of the conservation problems confronted, and provisions of such an agreement.

Two days later the delegations of Chile, Ecuador, and Peru, who acted in concert throughout the negotiations, replied that in their view the negotiations could be better facilitated by the immediate submittal by the United States of proposals for a conservation agreement.[3] The delegations of these three Governments (which became known as the CEP delegations) also urged that in making any such proposals the United States take into account the desirability of preventing repetition of incidents such as those which had taken place involving U.S. fishermen during the past months.

U.S. PROPOSALS FOR CONSERVATION AGREEMENT

Accordingly, on September 20 the U.S. delegation presented to the other delegations a full statement of its understanding of the problems of fishery conservation in the southeastern Pacific, insofar as the United States had an interest therein and knowledge thereof, and submitted, on the basis of this understanding, its proposals for a conservation agreement.[4]

In these documents the United States pointed out that its principal concern was with the stocks of yellowfin, skipjack, and big-eye tuna and with small bait fish used in catching the tuna. The distribution of these stocks of tuna in the Pacific Ocean was described in relation to ocean current systems. Data concerning the condition of these stocks of tuna were referred to, emanating principally from the studies carried out by the Inter-American Tropical Tuna Commission.[5]

The work of the Inter-American Tropical Tuna Commission was discussed, and the United States delegation pointed out that the convention which established that commission included, in its opinion, all or most of the provisions needed to handle the joint conservation problems of tuna and bait fish. However, since the Cep countries had not accepted an earlier invitation to join in this cooperative project for stocks of fish extending into the waters off their coasts, it appeared that they found the convention inadequate in one or more respects. The United States delegation stated that if they would explain these deficiencies, it would help in determining the type of agreement which would be satisfactory.

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[1] For the report of the conference, see U.N. doc. A/Conf.10/5/Rev. 2.
[2] *Santiago Negotiations on Fishery Conservation Problems*, U.S. doc. 1, p. 12.
[3] *Ibid.*, CEP (Chile, Ecuador, and Peru) doc. 1, p. 15.
[4] *Ibid.*, U.S. docs. 2, 3, 4, 5, 6, 7, pp. 16–30.
[5] *Ibid.*, U.S. doc. 5, p. 21.

With reference to the drafting of a conservation agreement the U.S. delegation set forth its main ideas in document 7, and later in document 9.[1] These documents outlined a conservation program involving the establishment of an international commission on which each participating state would be represented by a national section having one vote. The commission would carry out scientific research on stocks of fish of interest to two or more member states. In the discussion it was made clear that a state would be considered as having an interest in the conservation of a stock of fish either when it participated in the fishing of such stock or when such stock occurred in waters adjacent to its coast. The expenses of the commission with respect to any specific research program would be allocated to the member countries in relation to their share of the total catch of that stock of fish. The commission would be directed to determine, on the basis of scientific investigations, what, if any, conservation measures would be required to make possible the maximum sustainable productivity of a given stock of fish and to recommend the adoption of such measures to the Governments. Decisions of the commission were to be taken by agreement among all the national sections, but in the event of a failure to reach agreement, technical issues could be submitted to an arbitral procedure for a final settlement.

When the commission, either as a result of its own decision or of the arbitral findings, recommended conservation measures to the member states, these would go into effect automatically within a certain period of time unless a country objected. In the event of such objection, the U.S. proposals suggested the issue could again be submitted to an arbitral procedure for decision, and the award in this case would become binding upon all member states.

Avoiding Further Incidents

The proposals incorporated in the documents referred to set forth the U.S. position. However, an additional oral statement at the meeting of September 20 was made in reply to the Cep request that consideration be given to means of avoiding further incidents. The U.S. delegation suggested that the conclusion of a conservation agreement along the lines proposed would greatly help avoid further incidents by providing for international regulation of vessels of the parties fishing in the waters off the coasts of the Cep countries. Rules would be established by agreement among the countries on the proposed international commission and, in the view of the United

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[1] *Santiago Negotiations on Fishery Conservation Problems, U. S. doc. 5*, p. 50.

States, should be enforced by each Government against its own vessels. The U.S. delegation observed that it had noted with interest the statements of officials of the CEP Governments that the consideration which should govern activities of foreign fishermen in the waters off their coasts should be that they conform to rules for the conservation of the species, and suggested that so long as the commission established such regulations by agreement of all member states, no further difficulties regarding their adoption and validity should be encountered.

The United States proposals did not, however, prove acceptable to the CEP countries. On September 23 they stated their disagreement therewith and proposed certain alternative ideas differing in various respects from those advanced by the United States.[1] A major difference in the proposals put forth by the CEP countries had to do with the role assigned to the coastal state in enforcing any conservation measures which the international commission might propose, or which the coastal state itself might wish to put into effect. The CEP countries wished to have the agreement recognize the right of the coastal state to exclusive control of fisheries out to 12 miles from its shores and also in areas which each coastal state would unilaterally designate as constituting "areas traditionally exploited" by it. These areas would, judging from illustrative material presented during the negotiations, extend 50 to 60 miles beyond a 12-mile zone and cover most of the desirable fishing grounds off the coasts of the three South American countries. Fishing within these two classes of areas was to be controlled by licenses issued by the coastal state. In the remainder of the area covered by the proposed agreement, fishing for tuna and bait fish would be permitted subject to existing conservation regulations which would presumably include not only those established by the new commission but also apparently regulations promulgated by the three South American States either individually or jointly. Moreover, Chile, Ecuador, and Peru wished in essence to have exclusive jurisdiction to enforce the regulations within a 200-mile zone and, further, to occupy a preferential position with respect to any quotas governing the quantity, kind, etc., of fish taken which might be established pursuant to the conservation program.

The negotiations at this point began to focus upon what proved to be an insuperable obstacle, namely, the insistence of the CEP countries on inserting in any agreement provisions which would in effect recognize their claims to exclusive jurisdiction over large areas of the high seas off their coasts. The U.S. delegation pointed out that the authority to license fishing operations would involve the authority not only to determine the fees and other conditions of the licenses but also the authority to withhold them completely.

Moreover, the U.S. delegation pointed out that these provisions were in no sense required for the effective execution of a conservation program. In support of this point the United States amplified and clarified its proposals regarding the controversial issues.[2] It stressed that effective enforcement could be achieved by agreement on the provisions which would accord to the properly constituted authorities of any contracting party the right to board any fishing vessel flying the flag of a contracting party within the convention area if there were reason to believe that a conservation regulation was being violated, and, if supporting evidence was found, to take the vessel into the port and prefer charges against it. It urged that at this point the vessel should be promptly turned over to officials of the country of registry for trial and, if guilty, for punishment of the offense. It was pointed out that this system had been incorporated satisfactorily in several other international fishery conservation agreements.

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[1] *Santiago Negotiations on Fishery Conservation Problems,* CEP doc. 3, p. 34.

[2] *Ibid.,* U.S. doc. 9, p. 50.

Furthermore, in order to avoid damaging the juridical position of either side, the U.S. delegation proposed that an article be adopted in the convention clearly stating that it was being entered into "without affecting the position of any contracting state in regard to territorial waters."

Finally, the United States, while unable to accept the idea of exclusive jurisdiction by the coastal state over the "traditional" fishing areas which it might unilaterally declare, made a substitute proposal. It agreed to consider any proposals which the Cep countries might wish to advance to take care of special problems or situations involving small coastal fishing villages in the Cep countries which were dependent directly upon the sea for their sustenance. This proposal was justified on humanitarian grounds. The U.S. delegation insisted, however, that any cases falling under this general proposal would have to be supported by a factual showing of the dependence of the community upon the sea for its sustenance. This proposal did not prove to be of interest to the Cep states.

CEP Draft Convention

At the same meeting at which the United States submitted its document 9, the Cep countries presented a complete draft convention, modifying in some respects their early proposals.[1] However, the same fundamental obstacles to agreement remained, namely the desire of the Cep states to assert exclusive jurisdiction over large areas of the high seas off their coasts. A new thought was introduced in regard to the trial of alleged violations. The Cep draft suggested the setting up of a special jurisdiction under which the national section of the state making the arrest would try the vessel charged with an offense by means of administrative procedure and would impose penalties. It was further suggested that should the alleged offender wish to appeal he could do so to a special tribunal made up of the two national sections of the commission other than those representing the country of the alleged offender and the country of the arresting officer. In view of the bilateral character of the agreement proposed by the Cep countries, with Chile, Ecuador, and Peru identified as one party, and the United States identified as the other party, this procedure would, in most cases, result in two members of the same party hearing appeals from decisions in which the other member of that party was involved.

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[1] *Ibid.*, CEP doc. 5, p. 45.

NEGOTIATIONS SUSPENDED

At this stage it became clear that the negotiations had proceeded to a point which exhausted the capacity of the delegations to reach agreement within their instructions. The issue posed by the insistence of the CEP countries on exclusive jurisdiction over areas which the United States considered to be high seas in accordance with existing international law was apparently insuperable. The proposal for special tribunals to try offenders posed problems which would at the very least require careful and extended consideration, certainly within the U.S. Government. The proposals of the United States with respect to policing and enforcing the area likewise proved to be beyond the authority of the CEP delegations to accept. Accordingly, a decision was made to suspend the negotiations and a communiqué was issued announcing this decision.[1]

Differences in the interpretation of scientific information were also brought out in the course of the negotiations. The CEP countries, in their document of September 23,[2] advanced a theory of "eco-systems" and "biomas" according to which the interdependence of life on the coastal land with the living communities of the sea, plus the geographic, hydrographic, climatic, and other environmental factors influencing both, were said to create a relationship of such unity as to serve as a scientific basis for the legal claim of coastal states to preferential rights over adjacent waters. The U.S. delegation challenged this concept, pointing out that the idea of the existence of a perfect unity and interdependence between the communities that live in the sea and the coastal populations could have at most limited, if any, validity, such as for example in the well-known case of the guano bird populations of Peru. It stated that, on the contrary, conditions responsible for the existence of rich marine life in the area off the west coast of South America were the result of meteorological and oceanographical factors originating far from those areas—factors such as major wind systems of the Pacific and the interplay of its great oceanic currents. It also pointed out that many stocks of fish of greatest importance, such as tuna, moved widely over a broad area through and beyond the "biomas" of the area in question and that the interrelated communities of living organisms of the ocean, moreover, certainly bore no relationship to national boundaries as established by man on the land.[3]

Such differences were in part responsible for a substantial variance of opinion regarding the area to be covered by the proposed conservation agreement. The United States urged that, since some of the most important stocks of fish to be conserved (yellowfin and skipjack tunas) ranged all the way from the waters off Chile north to California, the convention should cover this entire area and be open to adherence of other American coastal states contiguous to these waters. Otherwise, only divided and therefore less effective attention could be given to those important stocks of fish. The CEP countries made it clear, however, that their interest was confined to waters off their coasts and that they were not prepared to enter into a broader agreement. The United States finally stated that, if the CEP states found it impossible to participate in a broader arrangement, it would, should other outstanding differences be resolved, agree to work out with them a convention limited to the four negotiating states.[1] However, in that case the United States would suggest certain changes in the functions to be assigned to the proposed commission to avoid conflict or duplication with the research activities of other organizations.

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[1] *Santiago Negotiations on Fishery Conservation Problems*, annex 2, p. 67.
[2] *Ibid.*, CEP doc. 2, p. 30.
[3] *Ibid.*, U. S. doc. 8, p. 36.

PURPORT OF 1945 PROCLAMATION

The U.S. delegation was interested to note during the course of the negotiations that official or public opinion in the CEP countries labored under considerable misunderstanding in respect to facts relating to U.S. policy regarding fishery conservation. For example, the purport and effect of the proclamation issued by the President of the United States in 1945 [2] concerning fishery conservation was widely misinterpreted as constituting a precedent for unilateral claims to large offshore areas of high seas for conservation purposes. The U.S. delegation repeatedly made clear that the United States through the Truman proclamation did not claim exclusive jurisdiction over the high seas off its coasts but on the contrary recognized that when foreign fishermen participated in fisheries off the coast of the United States beyond the 3-mile limit, conservation regulations would be worked out with the agreement of the governments concerned. It explained that only when U.S. nationals alone were involved would the United States establish the conservation regulations unilaterally in the exercise of the right of any government to regulate its own nationals on the high seas.[3]

Another misconception of U.S. policy at times reflected in statements appearing in the local press during the course of the negotiations was that the United States represented those countries which wished to be free to fish without restraint anywhere in the world, as opposed to the CEP countries, which represented the desire of other states to protect and conserve fishery resources. The U.S. delegation took such opportunities as it could to reiterate the firmly established policy of the United States to promote the conservation of fishery resources in which it had an interest in any area of the world. It was pointed out that the United States had in fact entered into more international agreements for the conservation of fishery resources than any other country. The regulations under these conservation agreements have proved highly beneficial to the fisheries concerned and thereby demonstrate to interested people in the United States, especially its fishermen, the positive value of effective conservation programs. The initiative taken by the United States in establishing with the Governments of Costa Rica and Panama the Inter-American Tropical Tuna Convention[1] (which is open to adherence by other interested states) has produced the most extensive and useful series of conservation studies that have been developed for any stocks of fish in the southeast Pacific. The work of the Inter-American Tropical Tuna Commission has already established a firm basis of knowledge concerning the condition of these stocks of fish and has placed the commission in a position to devise and recommend conservation regulations at any time, should the condition of these tuna stocks indicate such measures to be necessary.

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[1] *Ibid.*, U.S. doc. 9, p. 50.

[2] "Policy of the United States with Respect to Coastal Fisheries in Certain Areas of the High Seas"—Proclamation by the President of the United States, Sept. 28, 1945; for text, see *ibid.*, annex 3, p. 68, and Department of State *Bulletin* of Sept. 30, 1945, p. 486. [Also 10 *Fed. Reg.* 12304.]

[3] See "Recent Developments Affecting the Regime of the High Seas," by Herman Phleger, Legal Adviser, Department of State, Department of State *Bulletin* of June 6, 1955, p. 934 [*supra*, doc. 27].

In the course of the Santiago negotiations the United States made every effort to include in its proposals for a conservation agreement measures and procedures adequate for the cooperative activities necessary to assure the continued productivity of the stocks of fish in the eastern Pacific Ocean of interest to the four countries. Such an agreement would make the participating countries full partners in a conservation program involving effective research, recommendations for conservation based on scientific data, and enforcement of necessary measures. However, it was not possible to conclude such an agreement owing to the inability of the delegations of Chile, Ecuador, and Peru, without further consultation with their respective Governments, to negotiate an agreement which did not include provisions in effect giving recognition to their claims to exclusive jurisdiction over large areas of the high seas off their coasts.

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29. REVISION OF PRIOR AGREEMENTS RELATING TO THE SECURITY AND OPERATION OF THE PANAMA CANAL AND THE CANAL ZONE: Treaty of Mutual Understanding and Cooperation, With Memorandum of Understandings Reached, Between the United States of America and the Republic of Panama, January 25, 1955 (Excerpts)[2]

The President of the United States of America and the President of the Republic of Panama, desirous of concluding a treaty further to demonstrate the mutual understanding and cooperation of the two countries and to strengthen the bonds of understanding and friendship between their respective peoples, have appointed for that purpose as their respective Plenipotentiaries:

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[1] [Treaty of May 31, 1949; TIAS 2044; 1 UST 230.]

[2] TIAS 3297; 6 UST, pt. 2, p. 2273. Signed at Panama, Jan. 25, 1955; ratification advised by the Senate, July 29, 1955; ratified by the President, Aug. 17, 1955; ratifications exchanged at Washington, thereby bringing the treaty into force, Aug. 23, 1955.

. . . .

who, having communicated to one another their respective full powers, found in good and due form, and recognizing that neither the provisions of the Convention signed November 18, 1903,[1] nor the General Treaty signed March 2, 1936,[2] nor the present Treaty, may be modified except by mutual consent, agree upon the following Articles:

ARTICLE I

Beginning with the first annuity payable after the exchange of ratifications of the present Treaty, the payments under Article XIV of the Convention for the Construction of a Ship Canal between the United States of America and the Republic of Panama, signed November 18, 1903, as amended by Article VII of the General Treaty of Friendship and Cooperation, signed March 2, 1936, shall be One Million Nine Hundred Thirty Thousand and no/100 Balboas (B/1,930,000) as defined by the agreement embodied in the exchange of notes of March 2, 1936, between the Secretary of State of the United States of America and the Members of the Panamanian Treaty Commission.[3] The United States of America may discharge its obligation with respect to any such payment in any coin or currency, provided the amount so paid is the equivalent of One Million Nine Hundred Thirty Thousand and no/100 Balboas (B/1,930,000) as so defined.

On the date of the first payment under the present Treaty, the provisions of this Article shall supersede the provisions of Article VII of the General Treaty signed March 2, 1936.

Notwithstanding the provisions of this Article, the High Contracting Parties recognize the absence of any obligation on the part of either Party to alter the amount of the annuity.

ARTICLE II

(1) Notwithstanding the provisions of Article X of the Convention signed November 18, 1903, between the United States of America and the Republic of Panama, the United States of America agrees that the Republic of Panama may, subject to the provisions of paragraphs (2) and (3) of this Article, impose taxes upon the income (including income from sources within the Canal Zone) of all persons who are employed in the service of the Canal, the railroad, or auxiliary works, whether resident within or outside the Canal Zone, except:

(a) members of the Armed Forces of the United States of America,
(b) citizens of the United States of America, including those who have dual nationality, and
(c) other individuals who are not citizens of the Republic of Panama and who reside within the Canal Zone.

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[1] TS 431; 33 Stat. 2234.
[2] TS 945; 53 Stat., pt. 3, p. 1807.
[3] TS 945; 53 Stat., pt. 3, p. 1827.

(2) It is understood that any tax levied pursuant to paragraph (1) of this Article shall be imposed on a non-discriminatory basis and shall in no case be imposed at a rate higher or more burdensome than that applicable to income of citizens of the Republic of Panama generally.

(3) The Republic of Panama agrees not to impose taxes on pensions, annuities, relief payments, or other similar payments, or payments by way of compensation for injuries or death occurring in connection with, or incident to, service on the Canal, the railroad, or auxiliary works paid to or for the benefit of members of the Armed Forces or citizens of the United States of America or the lawful beneficiaries of such members or citizens who reside in territory under the jurisdiction of the Republic of Panama.

The provisions of this Article shall be operative for the taxable years beginning on or after the first day of January following the year in which the present Treaty enters into force.

ARTICLE III

Subject to the provisions of the succeeding paragraphs of this Article, the United States of America agrees that the monopoly granted in perpetuity by the Republic of Panama to the United States for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean, by Article V of the Convention signed November 18, 1903, shall be abrogated as of the effective date of this Treaty in so far as it pertains to the construction, maintenance and operation of any system of trans-Isthmian communication by railroad within the territory under the jurisdiction of the Republic of Panama.

Subject to the provisions of the succeeding paragraphs of this Article, the United States further agrees that the exclusive right to establish roads across the Isthmus of Panama acquired by the United States as a result of a concessionary contract granted to the Panama Railroad Company shall be abrogated as of the date of the entry into force of this Treaty, in so far as the right pertains to the establishment of roads within the territory under the jurisdiction of the Republic of Panama.

In view of the vital interest of both countries in the effective protection of the Canal, the High Contracting Parties further agree that such abrogation is subject to the understanding that no system of inter-oceanic communication within the territory under the jurisdiction of the Republic of Panama by means of railroad or highway may be financed, constructed, maintained, or operated directly or indirectly by a third country or nationals thereof, unless in the opinion of both High Contracting Parties such financing, construction, maintenance, or operation would not affect the security of the Canal.

The High Contracting Parties also agree that such abrogation as is contemplated by this Article shall in no wise affect the maintenance and operation of the present Panama Railroad in the Canal Zone and in territory subject to the jurisdiction of the Republic of Panama.

ARTICLE IV

The second paragraph of Article VII of the Convention signed November 18, 1903, having to do with the issuance of, compliance with, and enforcement of, sanitary ordinances in the Cities of Panama and Colón, shall be abrogated in its entirety as of the date of entry into force of this Treaty.

ARTICLE V

The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements in territory under the jurisdiction of the Republic of Panama when and as determined by the United States to be no longer needed for the operation, maintenance, sanitation or protection of the Panama Canal or of its auxiliary works, or for other authorized purposes of the United States in the Republic of Panama. The lands and improvements referred to in the preceding sentence and the determinations by the United States of America respecting the same, subject to the enactment of legislation by the Congress, are designated and set forth in Item 2 of the Memorandum of Understandings Reached which bears the same date as this Treaty. The United States of America also agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all its right, title and interest to the land and improvements in the area known as PAITILLA POINT and that effective with such conveyance the United States of America shall relinquish all the rights, power and authority granted to it in such area under the Convention signed November 18, 1903. The Republic of Panama agrees to save the Government of the United States harmless from any and all claims which may arise incident to the conveyance of the area known as PAITILLA POINT to the Republic of Panama.

ARTICLE VI

Article V of the Boundary Convention, signed September 2, 1914, between the United States of America and the Republic of Panama,[1] shall be replaced by the following provisions:

> "It is agreed that the permanent boundary line between the City of Colón (including the Harbor of Colón, as defined in Article VI of the Boundary Convention of 1914, and other waters adjacent to the shores of Colón) and the Canal Zone shall be as follows:
>
> . . . .
>
> The above described boundary is as shown on Panama Canal Company drawing No. 6117–22, entitled "Boundary Line Between the City of Colón and the Canal Zone", scale 1 inch to 600 feet,

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[1] TS 610; 38 Stat. 1900.

dated December 23, 1954, prepared for the Canal Zone Government, attached as an annex hereto and forming a part hereof." [1]

Article VIII of the General Treaty signed March 2, 1936, as amended by Article III of the Convention between the United States of America and the Republic of Panama regarding the Colón Corridor and certain other corridors through the Canal Zone, signed May 24, 1950,[2] is hereby modified by removing from the Colón, or westerly, end of the Colón Corridor the portion thereof lying north of North latitude 9° 21′ and incorporating such portion within the boundary of the City of Colón as described above.

This Article shall become effective upon completion of the withdrawal by the United States of America from the sections of the city of Colón known as New Cristobal, Colón Beach and the de Lesseps Area, with the exception of the lots retained for consulate purposes, except that it shall in no case become effective prior to the exchange of the instruments of ratification of this Treaty and the exchange of instruments of ratification of the Convention signed May 24, 1950, referred to in the preceding paragraph.

ARTICLE VII

The second paragraph of Article VII of the Boundary Convention signed September 2, 1914, between the United States of America and the Republic of Panama, shall be abrogated in its entirety as of the date of entry into force of the present Treaty.

The landing pier situated in the small cove on the southerly side of Manzanillo Island, constructed pursuant to provisions contained in the second paragraph of Article VII of the Boundary Convention of 1914 between the two countries, shall become the property of the Government of the Republic of Panama as of the date of entry into force of the present Treaty.

ARTICLE VIII

(a) The Republic of Panama will reserve exclusively for the purpose of maneuvers and military training the area described in the maps (Nos. SGN–7–54 and SGN–8–54, each dated November 17, 1954) and accompanying descriptions prepared by the Comisión Catastral of the Republic of Panama, attached as the Annex hereto,[3] and will permit the United States of America, without cost and free of all encumbrances, exclusively to utilize said area for the indicated purpose for a period of fifteen (15) years, subject to extension thereafter as agreed by the two Governments. This authorization includes the free access to, egress from, and movements within and over, said area. This utilization will not affect the sovereignty of the Republic of Panama, or the operation of the Constitution and the laws of the Republic over the mentioned area.

(b) The United States Armed Forces, the members thereof and their families actually residing with them, and United States nationals who, in an official capacity, are serving with or accompanying the Armed Forces of the United States and members of their families actually residing with them will be exempted within the said area from all taxation by the Republic of Panama or any of its political subdivisions.

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[1] Not reprinted here.

[2] TIAS 3180; 6 UST 461.

[3] Not reprinted here.

(c) Prior to the expiration of the period envisaged in this Article and within a reasonable time thereafter the United States shall have the right to remove from this training and maneuver area, or otherwise to dispose of, without limitation or restriction all structures, installations, facilities, equipment and supplies brought into, or constructed or erected within this training and maneuver area by or on behalf of the United States. The Republic of Panama will not be required to reimburse the United States for any structures, installations, facilities, equipment and supplies not removed or otherwise disposed of as provided herein.

(d) The United States shall be under no obligation to restore this training and maneuver area or the facilities and installations thereon to their original condition upon the termination of this Article, except for the landing strip which will be returned in at least as good condition as that obtaining at the time of coming into effect of this Article.

(e) The provisions of this Article shall in no manner terminate or modify the provisions concerning the holding of military maneuvers in the Republic of Panama established by the Notes ancillary to the General Treaty signed March 2, 1936 [1] other than as provided herein for this training and maneuver area.

ARTICLE IX

The Republic of Panama hereby waives the right under Article XIX of the Convention signed November 18, 1903, to transportation by railway within the Zone, without paying charges of any kind, of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of the Canal Zone, as well as of their baggage, munitions of war and supplies.

ARTICLE X

The High Contracting Parties agree that, in the event of the discontinuance of the Panama Railroad, and of the construction or completion by the United States of a strategic highway across the Isthmus lying wholly within the Canal Zone intended primarily for serving the operation, maintenance, civil government, sanitation and protection of the Panama Canal and Canal Zone, and notwithstanding anything to the contrary in Article VI of the Convention signed November 18, 1903, the United States of America may in its discretion either prohibit or restrict the use, by busses or trucks not at the time engaged exclusively in the servicing of, or the transportation of supplies to, installations, facilities or residents of the Canal Zone, of that portion of such highway which lies between Mount Hope, Canal Zone and the intersection of such highway with the Canal Zone section of the Trans-Isthmian Highway referred to in the Trans-Isthmian Highway Convention between the United States of America and the Republic of Panama, signed March 2, 1936.[1]

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[1] TS 945; 53 Stat., pt. 3, p. 1827.

ARTICLE XI

The Republic of Panama agrees, notwithstanding the provisions of Article III of the General Treaty signed March 2, 1936, that the United States of America may extend the privilege of purchasing at post exchanges small items of personal convenience and items necessary for professional use, to military personnel of friendly third countries present in the Zone under auspices of the United States.

ARTICLE XII

The United States of America agrees that, effective December 31, 1956, there will be excluded from the privilege of making purchases in the commissaries and other sales stores in the Canal Zone as well as the privilege of making importations into the Canal Zone all those persons who are not citizens of the United States of America, except members of the Armed Forces of the United States, and who do not actually reside in the Canal Zone but who are included in the categories of persons authorized to reside in said Zone; it being understood nevertheless that all personnel of the agencies of the United States of America will be permitted under adequate controls to purchase small articles such as meals, sweets, chewing gum, tobacco and similar articles near the sites of their jobs.

The United States of America further agrees that, effective December 31, 1956, and notwithstanding the provisions of the first paragraph of Article IV of the General Treaty signed March 2, 1936, the Government of the Republic of Panama may impose import duties and other charges upon goods destined or consigned to persons, other than citizens of the United States of America, included in class (a) in Section 2 of Article III of said Treaty, who reside or sojourn in territory under the jurisdiction of the Republic of Panama during the performance of their service with the United States of America or its agencies, even though such goods are intended for their own use and benefit.

ARTICLE XIII

The present Treaty shall be subject to ratification and the instruments of ratification shall be exchanged at Washington. It shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF, the Plenipotentiaries have signed this Treaty in duplicate, in the English and Spanish languages, both texts being authentic, and have hereunto affixed their seals.

DONE at the City of Panama the 25th day of January 1955.

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[1] TS 946; 53 Stat., pt. 3, p. 1869.

[*The annex concerning area reserved by the Government of Panama in the Rio Hato District for military maneuvers and training is not reprinted here.*]

MEMORANDUM OF UNDERSTANDINGS REACHED [1]

In connection with the 1953–1954 negotiations between representatives of the United States of America and the Republic of Panama, which have resulted in the signature of a Treaty between the two countries, the following understandings have been reached:

On the part of the United States of America:

1. Legislation will be sought which will authorize each agency of the United States Government in the Canal Zone to conform its existing wage practices in the Zone to the following principles:

(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

(b) In the case of an employee who is a citizen of the United States, there may be added to the base pay an increment representing an overseas differential plus an allowance for those elements, such as taxes, which operate to reduce the disposable income of such an employee as compared with an employee who is a resident of the area.

(c) The employee who is a citizen of the United States will also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.

Legislation will be sought to make the Civil Service Retirement Act [2] uniformly applicable to citizens of the United States and of the Republic of Panama employed by the Government of the United States in the Canal Zone.

The United States will afford equality of opportunity to citizens of Panama for employment in all United States Government positions in the Canal Zone for which they are qualified and in which the employment of United States citizens is not required, in the judgment of the United States, for security reasons.

The agencies of the United States Government will evaluate, classify and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by United States agencies in the Canal Zone.

2. With reference to that part of Article V of the Treaty signed

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[1] Since the treaty did not enter into force until Aug. 23, 1955, Congress lacked any opportunity to pass implementing legislation before Dec. 31, 1955.

[2] 5 USC §§ 691 *et seq.*

today which deals with the conveyance to the Republic of Panama free of cost of all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements situated in territory under the jurisdiction of the Republic of Panama, steps will be taken as provided in this Item.

(a) Legislation will be sought to authorize and direct the transfer to the Republic of Panama of all the right, title and interest held by the United States or its agencies in or to the following real property:

1. The J. N. Vialette and Huerta de San Doval tracts in the city of Panama and the Aspinwall tract on the Island of Taboga.
2. Las Isletas and Santa Catalina Military Reservations on the Island of Taboga. This transfer will include the cable rights-of-way which have a width of 20 feet (6.10 meters) and extend between the Ancon Cove Military Reservation and the Santa Catalina Military Reservation, and between the El Vigia Military Reservation and the Las Isletas Military Reservation.
3. The lot in Colón now reserved for consulate purposes.
4. Certain lands on the westerly shores of the city of Colón described roughly as extending from the southerly boundary of the de Lesseps area (4th Street extended) to the Colón-Canal Zone boundary and bounded on the east by the east wall of the old freight house and, below that structure, by a line 25 feet (7.622 meters) west of the center line of the most westerly railroad track. This transfer will include the certain improvements consisting of the old freight house and Colón Pier Number 3.

(b) Legislation will be sought to authorize and direct the Panama Canal Company to remove its railway terminal operations from the city of Panama and to transfer to the Republic of Panama free of cost all of the right, title and interest of the Panama Canal Company in and to the lands known as the Panama Railroad Yard, including the improvements thereon and specifically including the railway passenger station. This action will also relieve the Government of the Republic of Panama of its obligation under Point 10 of the General Relations Agreement between the United States of America and the Republic of Panama signed May 18, 1942[1] to make available without cost to the Government of the United States of America a suitable new site for such terminal facilities.

(c) With respect to those areas in the city of Colón known as de Lesseps, Colón Beach and New Cristobal (with the exception of two lots in the de Lesseps area which the United States intends to use for consulate purposes), legislation will be sought to authorize and direct the gradual withdrawal from these areas and the conveyance or transfer to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to the lands and improvements thereon. Under this process of gradual withdrawal the United States Government, and/or its agencies, will not be obligated to install any new structure in such areas and, as severable parts of the areas cease to be needed, the lands and improvements would be conveyed or transferred. The severability of parts of the areas depends upon a number of practical considerations including those having to do with the present obligations of the United States, with respect to the subject areas, concerning water and sewerage facilities, street cleaning and paving, water supply, et cetera, as stipulated in the Instrument of Transfer of Water and Sewerage Systems, executed between the Governor of the Panama Canal and the Foreign Minister of Panama on December 28, 1945.

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[1] Executive Agreement Series (EAS) 452; 59 Stat. 1294.

(d) With respect to the railroad passenger station and site in the city of Colón, legislation will be sought to authorize and direct the withdrawal from such site and structure at such time as the withdrawal from the areas known as de Lesseps, Colón Beach and New Cristobal, contemplated by the next preceding subparagraph, shall have been fully completed, and the conveyance to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to such site and structure. However, the railroad tracks and trackage area in Colón, being required for switching purposes serving the Cristobal piers, will be retained for such purposes.

(e) All transfers or conveyances of lands and improvements contemplated by this Item, subject to legislative authorization and direction, will necessarily be made subject to any leases which may be outstanding in the respective areas, and will also contain provisions fully protecting the Government of the United States of America against any claims by lessees for damages or losses which may arise as a result of such transfers or conveyances.

(f) The transfers or conveyances contemplated by this Item, subject to legislative authorization, are in addition to the conveyance of Paitilla Point as specifically covered by Article V of the Treaty signed today, and to the transfer of real property effected by Article VI of said Treaty.

3. Articles, materials, and supplies that are mined, produced or manufactured in the Republic of Panama, when purchased for use in the Canal Zone, will be exempted from the provisions of the Buy American Act.[1]

4. Referring to the exchange of notes dated March 2, 1936, accessory to the General Treaty between the United States of America and the

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[1] Act of Mar. 3, 1933; 47 Stat. 1520.

Republic of Panama signed on that date, relative to the sale to ships of goods imported into the Canal Zone by the Government of the United States of America, the United States of America agrees, effective December 31, 1956, and in benefit of Panamanian commerce, to withdraw wholly from, and thereafter to refrain from, any such sales to ships, provided that nothing in this Item shall apply:

(a) to sales to ships operated by or for the account of the Government of the United States of America,
(b) to the sale of fuel or lubricants, or
(c) to any sale or furnishing of ships stores which is incidental to the performance of ship repair operations by any agency of the Government of the United States of America.

5. Legislative authorization and the necessary appropriations will be sought for the construction of a bridge at Balboa referred to in Point 4 of the General Relations Agreement of 1942.

6. The United States of America agrees, effective December 31, 1956, to withdraw from persons employed by agencies of the Government of the United States of America in the Canal Zone who are not citizens of the United States of America and who do not actually reside in said Zone the privilege of availing themselves of services which are offered within said Zone except those which are essential to health or necessary to permit them to perform their duties.

7. It is and will continue to be the policy of the Panama Canal agencies and of the Armed Forces in the Canal Zone in making purchases of supplies, materials and equipment, so far as permitted under United States legislation to afford to the economy of the Republic of Panama full opportunity to compete for such business.

8. In general connection with the matter of the importation of items of merchandise for resale in the sales stores in the Canal Zone, it will be the practice of the agencies concerned to acquire such items either from United States sources or Panamanian sources unless, in certain instances, it is not feasible to do so.

9. With respect to the manufacture and processing of goods for sale to or consumption by individuals, now carried on by the Panama Canal Company, it will be the policy of the United States of America to terminate such activities whenever and for so long as such goods, or particular classes thereof, are determined by the United States of America to be available in the Republic of Panama on a continuing basis, in satisfactory qualities and quantities, and at reasonable prices. The United States of America will give prompt consideration to a request in writing on the part of the Government of Panama concerning the termination of the manufacture or processing of any goods covered in this Item as to which the Government of Panama may consider the criteria specified in this Item to have been met.

10. Prompt consideration will be given to withdrawing from the handling of commercial cargo for transshipment on Canal Zone piers

so soon as Panamanian port facilities are in satisfactory operation in Colón.

11. The United States agrees that the term "auxiliary works" as used in the Treaty includes the Armed Forces of the United States of America.

On the part of the Republic of Panama:

1. The Republic of Panama will lease to the United States of America, free of all cost save for the recited consideration of one Balboa, for a period of 99 years, two parcels of land contiguous to the present United States Embassy residence site, as designated on the sketch (No. SGN–9–54, dated November 19, 1954) and accompanying descriptions prepared by the Comisión Catastral of the Republic of Panama, attached hereto.[1]

2. The Republic of Panama assures the United States of America that the property, shown and described on the attached map (No. SGN–6–54, dated October 1954) and accompanying description [1] prepared by the Comisión Catastral of the Republic of Panama, in front of the United States Embassy office building site and between the Bay of Panama and Avenida Balboa as it may be extended between 37th and 39th Streets, will be preserved permanently as a park and not developed for commercial or residential purposes.

3. So long as the United States of America maintains in effect those provisions of Executive Order No. 6997 of March 25, 1935 governing the importation of alcoholic beverages into the Canal Zone, the Republic of Panama will grant a reduction of 75 percent in the import duty on alcoholic beverages which are sold in Panama for importation into the Canal Zone pursuant to such Executive Order.

4. In connection with the authorization granted to the United States of America in Article VIII of the Treaty, the United States shall have free access to the beach areas contiguous to the maneuver area described in said Article VIII for purposes connected with training and maneuvers, subject to the public use of said beach as provided under the Constitution of Panama.

The provisions of this Memorandum of Understandings Reached shall enter into force upon the exchange of instruments of ratification of the Treaty signed this day by the United States of America and the Republic of Panama.

DONE in duplicate in the City of Panama, in the English and Spanish languages, this 25th day of January 1955.

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[1] Not reprinted here.

30. ENTRY OF MEXICAN AGRICULTURAL WORKERS INTO THE UNITED STATES: Migrant Labor Agreement of 1951, as Amended, Between the United States and Mexico, as Extended on December 23, 1955[1]

INTRODUCTION

The Government of the United States of America and the Government of Mexico, desiring that employment of Mexican agricultural workers who may be needed in the United States shall be carried out under conditions consistent with the interests of both countries, and seeking to establish an orderly program for the employment of such workers that will be in harmony with the spirit of understanding and cooperation that characterizes the relations between them, hereby agree as follows:

Article 1

DEFINITIONS

As used in this Agreement, the terms:

a) "Mexican Worker" means a Mexican National at least 18 years of age, not a resident of the United States of America, who is legally admitted to that country for temporary employment in Agriculture in accordance with the terms of this Agreement.

b) "Employer" means:

(1) The operator of agricultural property who is engaged in agriculture, as defined in this Article;

(2) An association or other group of employers but only if those of its members for whom Mexican Workers are being obtained are bound, in the event of its default, to carry out the obligations undertaken by it pursuant to the provisions of this Agreement and Work Contract,[2] unless the Secretary of Labor of the United States determines that such individual liability is not necessary to assure performance of such obligations; or

(3) A processor, shipper, or marketer of agricultural products when the Mexican Workers whom he obtains are employed by him in Agriculture on crops purchased by him;

c) "Wages" means all forms of remuneration to a Mexican Worker by an Employer for personal services including, but not limited to, subsistence, incentive payments, Employer contributions to or payments of insurance benefits, Employer contributions to a pension fund or annuity, and payments in kind.

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[1] *Information Concerning Entry of Mexican Agricultural Workers into the United States*, Department of Labor, Feb. 1956, pp. 1–10; and TIAS 3454 (6 UST 6058). The original agreement of Aug. 11, 1951, may be found in TIAS 2331 (2 UST 1940). See also PL 78, 82d Cong., 1st sess. (65 Stat. 119), for the basic authority for this agreement.

[2] The "Standard Work Contract" appended to the text of the original 1951 agreement is not reprinted here. For its text, see 2 UST 1987–1995.

d) "Agriculture" means:

(1) Cultivation and tillage of the soil, planting, production, cultivation, growing, and harvesting of any agricultural or horticultural commodities and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage, or to market, or to a carrier for transportation to market;

(2) The maintenance of a farm and its tools and equipment, or salvaging of timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(3) The maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit and used exclusively for supplying or storing water for farming purposes, and cotton ginning.

(4) Handling, drying, packing, packaging, processing, freezing, grading, or storing, in its unmanufactured state any agricultural or horticultural commodity for the operator of a farm; but only if such operator produced more than one-half of the commodity with respect to which the service is performed;

(5) All of the activities described in (4) for a group of operators of farms, but only if such operators produced the commodities with respect to which such activities are performed;

(6) The provisions of (4) and (5) shall not be applicable with respect to services performed in connection with commercial canning or commercial freezing, or in connection with any agricultural or horticultural commodities, after their delivery to a terminal market for distribution for consumption.

e) "Migratory Station" means an office established by the Government of Mexico within its territory where the selection of Mexican Workers is made and to which they will return when their contracts have terminated.

f) "Reception Center" means an office established by the Government of the United States of America within its territory to which a Mexican Worker selected at a Migratory Station is brought to be contracted for by an Employer and to which he will return from his place of employment upon termination of his contract in order that he may be returned to the Migratory Station from which he came.

g) "Secretary of Labor" means the Secretary of Labor of the United States or his duly authorized representative.

h) "Personal Injury" means Personal Injury arising out of and in the course of the employment of a Mexican Worker.

i) "Disease" means any Disease which is contracted in the course of a Mexican Worker's employment and is directly attributable to the work in which he is engaged.

j) "Workday" means 8 hours in each calendar day, except Sundays, New Year[']s [Days], July 4[ths], Labor Day[s], Thanksgiving[s], and Christmas[es].

k) "Certification" means the determination and certification by the Secretary of Labor made pursuant to Section 503 of Public Law 78, Eighty-second Congress, approved July 12, 1951.[1]

JOINT INTERPRETATION

"Under the provisions of Article 1 (b) (2) of the Migrant Labor Agreement of 1951, as Amended, an association who contracts Mexican workers may assign such workers only to individual user-members of the association and not to other associations, whether or not such other associations are members of the contracting association.

"There is no authority under this Article to contract or assign a Mexican worker to any individual, processor, marketer, or shipper for the cultivation or harvesting of any crop which is not owned or which has not been contracted for by such individual, processor, marketer, or shipper at the time the work is performed by the worker.

"Under no circumstances is a worker to be used by anyone as an inducement to, or to coerce any farmer to transact any business with him.

"For the purposes of this Agreement, an association who contracts Mexican workers is the employer of such workers and is primarily liable for the failure of any individual user-member of such association to meet his obligations under the Migrant Labor Agreement or the Work Contract. An association may, within the Mexican worker's contract period, assign him to any eligible individual user-member of the association for such periods as the association deems appropriate or desirable.

"In the case of employment of a worker by an association, the three-fourths guarantee of employment provided for in Article 10 of the Work Contract applies to the total period of the Work Contract and all of its extensions and not to the length of employment with any individual user-member, whether or not the worker has been withdrawn by the association from the individual user-member because of such individual user-member's violation of the Work Contract."

Article 2

NEGOTIATIONS BY GOVERNMENTS

All negotiations relating to any aspects of the program which is the subject of this Agreement shall be carried out exclusively between the two Governments.

Article 3

PRESENTING REQUESTS FOR WORKERS

At least thirty days prior to the date on which it is desired to have Mexican Workers recruited, the Secretary of Labor will advise the Mexican Government of the estimated number required. The estimates may be revised to conform to changes in agricultural needs and such revisions shall be communicated promptly to the Mexican Government.

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[1] 65 Stat. 119.

The Mexican Government will consider these estimates in the light of Mexico's current needs for agricultural labor and its requirements for the development of its agricultural economy and with a view toward harmonizing the agricultural cycles of the two countries. Within fifteen days after receiving the estimate, the Mexican Government will notify the Secretary of Labor of the approximate number of Mexican Workers it will make available at each Migratory Station.

The Secretary of Labor will notify the Mexican Government two weeks in advance of the date on which he desires that recruiting operations shall begin at each Migratory Station. Such notice will contain information with respect to the number of Mexican Workers that are desired from each Migratory Station and the dates within which they will be required.

The Secretary of Labor will determine which Employers are to be scheduled for contracting at specific Reception Centers. Both Governments will take all necessary action to assure that recruiting will begin on the dates agreed upon as the opening date for each Migratory Station.

Article 4

LOCATION OF MIGRATORY STATIONS AND RECEPTION CENTERS

The Government of Mexico will establish the Migratory Stations in the Republic of Mexico at Mexicali, Baja California; Monterrey, Nuevo León; Chihuahua, Chihuahua; Irapuato, Guanajuato; Guadalajara, Jalisco; Durango, Durango; or at places adjacent to such cities, and at such other places as may be mutually agreed to by the two Governments. The United States will establish Reception Centers at Hidalgo, Eagle Pass and El Paso, Texas; Nogales, Arizona; and El Centro, California; or at places adjacent to such cities, and such other places as may be mutually agreed to by the two Governments.

Article 5

SELECTION AT MIGRATORY STATIONS

It will be the responsibility of the Mexican Government to assemble prospective Workers at the Migratory Stations where qualified candidates for contracting will be selected by representatives of the Secretary of Labor after examination by the Public Health Service of Mexico and the Mexican Ministry of *Gobernación*. Workers who have not complied with the Mexican Military Service Law will not be eligible for selection. At the Migratory Station, officials of the United States Public Health Service will conduct a physical examination of each candidate to assure that he meets the mental and health requirements for admission to the United States. Officials of the United States Department of Justice will conduct an examination to determine his admissibility under the Immigration Laws of the United

States. Officials of the United States Public Health Service and of the United States Department of Justice may conduct such additional examinations or investigations at the Reception Centers in the United States as they deem necessary and appropriate.

For the purpose of this Agreement, a Mexican Worker shall not be regarded as having departed from Mexico until he has been contracted.

A Mexican Worker shall not remain at a Reception Center more than five consecutive days after his arrival from Mexico, except in the case of a serious impediment.

A Mexican Worker selected at a Migratory Station can only be rejected at the Reception Center when it is determined that his admission into the United States is in contravention of the Public Health, Immigration or Internal Security Laws of the United States.

Article 6

TRANSPORTATION BETWEEN MIGRATORY STATION AND RECEPTION CENTER

The Secretary of Labor, at the expense of the United States Government, shall provide transportation for a prospective Mexican Worker selected at the Migratory Station, except Guadalajara, from such Migratory Station to the Reception Center and return to the nearest Migratory Station. The transportation of the Mexican Worker recruited at Guadalajara shall be paid by the United States Government from Hermosillo, Sonora, to the Reception Center and return to Hermosillo.

The Secretary of Labor, at the expense of the United States Government, shall also furnish the prospective Workers subsistence while awaiting transportation from the Migratory Station, except Guadalajara, to the Reception Center, while he is in transit between the Migratory Station, except Guadalajara, and the Reception Center and return, and while he is at the Reception Center. Mexican Workers who are recruited at Guadalajara and who are returned to Hermosillo will be furnished subsistence while at the Reception Center and paid for subsistence while in transit between the Reception Center and Hermosillo.

Article 7

EMPLOYERS WHO ARE INELIGIBLE TO CONTRACT

Immediately after this Agreement becomes effective, the Secretary of Foreign Relations of Mexico will furnish the Secretary of Labor with a list of the Employers whom he considers ineligible to contract Mexican Workers because of failure to comply with the International (Executive) Agreement, approved August 1, 1949,[1] or with any Work Contract approved pursuant thereto or, with this Agreement, as amended, or with any Work Contract approved pursuant to it. The said list may be supplemented or revised from time to time, by the Secretary of Foreign Relations.

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[1] TIAS 2260; 2 UST 1048.

The following special procedure will be used in listing Employers who are ineligible to contract Mexican Workers:

1. The Consul of Mexico who has jurisdiction over the area where the farm on which the Workers are employed is located, shall communicate to the appropriate Regional Representatives of the Secretary of Labor, the name and address of the Employer whom it is sought to include in the list of those ineligible to contract and request that a joint investigation be made in the office of the Consulate. The Employer shall be informed of this fact by the Regional Representative of the Secretary of Labor and the Workers who eventually would be affected by the decision, or their representative, will be informed by the Consul of Mexico. The Employer as well as the Workers, or their representative, shall have the right to participate in the joint investigation to which paragraph 2 of this Article refers.

2. The Regional Representative of the Secretary of Labor shall designate a representative to participate in the joint investigation which shall begin—at the latest—two days after the receipt of the Consul's communication by the Regional Representative of the Secretary of Labor. This investigation shall be made under the following rules:

a) The Consul shall show the Representative of the Secretary of Labor all of the files and other documents which support the reason for not providing Mexican Workers to the Employer in question, and he shall explain all of the reasons for such a determination.

b) If the Representative of the Secretary of Labor should agree that the reasons which served as a basis for the purpose of excluding the Employer are justified, the two officials shall sign an instrument (model attached)[1] declaring the Employer ineligible, and this shall be done, at the latest, four days after the initiation of the procedure to which point 2 of this Article refers. A similar procedure shall be followed in the event that the Consul of Mexico should consider that the complaints made do not merit the inclusion of the Employer in the list of ineligibles to contract Mexican Workers. The Representative of the Secretary of Labor shall inform the Employer of this decision in writing, and the Consul of Mexico shall do likewise with respect to the Workers so affected, or their representative; in the understanding that either the Employer or the Workers or their representative can request that the matter be referred to Washington, as provided under point 2(d) of this Article.

c) In the event that the Employer or the Workers, or their representative, do not avail themselves of their right to participate in the joint hearing, the Representative of the Secretary of Labor or the Consul of Mexico, when they may consider it necessary or convenient, can request one, the other, or both, to attend the meetings which shall take place in the offices of the Consulate. The proper determination of a case shall be reached at such meetings, with the understanding that the procedure to which this paragraph refers should not be delayed more than 3 days.

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[1] Not reprinted here.

d) If the officials mentioned do not reach an agreement, they shall, nevertheless, sign a joint instrument in which they shall state, in their order, their respective points of view, and the decisions which they may reach, including the statements which the Employer may make in his defense, as well as the charges which may be made by the Workers or their representative for their part. Copies of such instrument shall be forwarded immediately to the following higher authorities: The Ambassador of Mexico at Washington; the Secretary of Foreign Relations of Mexico; the Consul General of Mexico; the Regional Representative of the Secretary of Labor and the Secretary of Labor (at Washington, D. C.).

e) Upon the receipt of a copy of the instrument to which the last paragraph refers, the Embassy of Mexico shall propose to the Department of Labor that a new study of the case be made within the two following days with a view to making it possible to dictate a joint determination five days after the initiation of conversations, at the latest. In exceptional cases the time limit of five days may be extended when the Embassy of Mexico and the Department of Labor may concur. This determination shall be communicated to the Ministry of Foreign Relations of Mexico, the Embassy of the United States of America in Mexico, the Consulate General of Mexico and the Regional Representative of the Secretary of Labor so that the latter may make it known to the Employer. If the Representative of the Embassy of Mexico and the Secretary of Labor do not reach an agreement in the case, a copy of the determination shall, nevertheless, be sent to the officers mentioned previously in this paragraph, and the matter shall be referred to the Secretary of Foreign Relations of Mexico for his consideration.

The Secretary of Labor can, under the following circumstances, refuse to issue a certification to an Employer or to revoke one that has been previously issued:

a) Where there has been a joint determination under Article 30 that the Employer has failed to meet his obligations under any previous contract entered into pursuant to the International Executive Agreement adopted August 1, 1949,[1] or this Agreement; or

b) Where the Secretary of Labor has determined that the Employer has,

(1) After any certification has been issued, employed Mexican Nationals who are illegally in the United States; or

(2) After thirty days from the effective date of this Agreement, employed Mexican nationals who are illegally in the United States; or

c) Where the Secretary of Labor finds that the Employer has contracted or is endeavoring to contract Mexican Workers for another Employer who is not himself eligible to contract Mexican Workers; or

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[1] TIAS 2260; 2 UST 1048.

d) Where the Mexican Worker is employed or is to be employed on a farm or other establishment operated by two or more persons any of whom is ineligible to use Mexican Workers; or

e) Where the Secretary of Labor finds that housing, sanitary facilities, or drinking water is inadequate, in accordance with the terms of this Agreement. The Mexican Government may object to the housing facilities and may request application of the procedure provided for in Article 30.

Notwithstanding the provisions of a), b), c), d), and e) of this Article, the Secretary of Labor may, at his discretion and with the approval of the Mexican Government, issue a certification for an Employer to contract Mexican Workers under this Agreement and require such Employer to furnish such bond or other form of indemnity as he may deem appropriate and necessary, but no Mexican Workers shall be made available under this Agreement to, nor shall any Mexican Workers made available under this Agreement be permitted to remain in the employ of, any Employer who has in his employ any Mexican national when such Employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican national is not lawfully in the United States.

When the officials of both Governments responsible for the administration of this program find that an Employer utilizes the services of illegal workers, they will within a period of three days institute the necessary action so that the contracted workers may be withdrawn and transferred to another authorized Employer, and the Immigration Service, within the same period, shall proceed to the extent possible to withdraw the illegal Workers who are found on the farm and shall continue to exercise vigilance over it to avoid recurrences.

Determinations as to the unacceptability of any Employers for contracting Mexican Workers shall be made only in accordance with the special procedure established beginning with the second paragraph of Article 7 of the Agreement.

In certain cases, however, as for example, physical mistreatment, insults or threats and other grave abuses, the Secretary of Foreign Relations will make known the facts directly to the Secretary of Labor, through the Mexican Embassy in Washington, in order that, without prejudice to either the criminal or civil responsibility which the Employer may incur and the corresponding indemnity, a prompt joint determination may be reached in order to include him, if appropriate, in the list of those unacceptable to contract workers. The list of those unacceptable on the date on which the renewal of the Agreement enters into effect shall include only those Employers who have previously been declared unacceptable by joint determination of both Governments.

Article 8

PROHIBITION AGAINST DISCRIMINATION

Mexican Workers shall not be assigned to work in localities in which Mexicans are discriminated against because of their nationality or ancestry. Within a reasonable time after the effective date of this Agreement and from time to time thereafter, the Mexican Ministry for Foreign Relations will furnish the Secretary of Labor a listing of the communities in which it considers that discrimination against Mexicans exists. If there is concurrence by the Secretary of Labor that there is such discrimination in any such area, the United States Department of Justice will not issue the authorizations provided for in Article 10 to send Mexican Workers into such area.

If the Secretary of Labor does not concur, the appropriate Mexican Consul may request a statement signed by the Chief Executive Officer or Officers or the Chief Law Enforcement Officer of the Community in which the Mexican Workers are to be employed, pledging for the community that:

a) No discriminatory acts will be perpetrated against Mexicans in that locality; and

b) In the event that the Mexican Consul reports the existence of acts of discrimination against any Mexican because of ancestry or nationality, the local governmental officers who signed the statement will have such complaints promptly investigated and take such community and individual action as may be necessary to fulfill the community pledge.

The Mexican Government will permit employment in such areas if such pledges are furnished.

If, notwithstanding the foregoing, the Mexican Consul reports that discriminatory acts have been committed against Mexicans because of their nationality or ancestry in a locality where Mexican Workers are employed, the Mexican Consul having jurisdiction in the locality may request the Representative of the Secretary of Labor to join the Mexican Consul in a joint investigation in which event the procedure prescribed in Article 30 of this Agreement will be followed.

The Government of Mexico will not include "counties" under Article 8 of the Agreement in the list of towns, communities, localities and places where it is considered that discrimination exists against Mexicans on account of their nationality or of their ancestry.

Article 9

PREFERENCE IN EMPLOYMENT FOR UNITED STATES WORKERS

Mexican Workers shall not be employed in the United States in any jobs for which domestic workers can be reasonably obtained or where the employment of Mexican Workers would adversely affect the wages and working conditions of domestic agricultural workers in the United States. The Secretary of Labor may refuse to issue a certificate for any Employer who he determines is not giving preference to United States domestic workers either when hiring workers or when reducing his labor force.

Whenever the Secretary of Labor determines that United States Workers are available to fill jobs for which Mexican Workers have been contracted, the Representative of the Secretary of Labor shall immediately notify the appropriate Mexican Consul and the respective Employers that certification will be withdrawn and the applicable Work Contracts terminated. The Secretary of Labor shall, to the extent practicable, transfer the Mexican Workers concerned to other agricultural employment for which United States Workers cannot reasonably be obtained. Such transfers shall be subject to the conditions of Article 27. If such transfers cannot be effected, the respective Employers shall be required to return the Mexican Workers to the Reception Centers from which they were obtained, without cost to the Mexican Workers. Whenever a Work Contract is terminated under the provisions of this Article, the Employer shall be responsible for the three-fourths guarantee provided for in Article 16 of the Agreement for the period beginning with the day following the Mexican Worker's arrival at the place of employment and ending with the date the Work Contract is terminated but in such event the three-fourths guarantee will prevail for a period of at least six weeks, and the Employer shall pay to the Mexican Worker all other amounts due him under the Work Contract.

Article 10

REQUISITES FOR CONTRACTING

Only those Employers will be permitted to contract Mexican nationals who:

a) Have obtained the required certification from the Secretary of Labor, and

b) Have obtained authorization from the United States Department of Justice to bring such Mexican nationals into the United States.

Article 11

EMPLOYMENT GOVERNED BY AGREEMENT AND WORK CONTRACT

All employment of Mexican Workers legally admitted to the United States for agricultural employment shall be governed by the terms of this Agreement, including the Work Contract[1] which is attached hereto and made a part of the Agreement, and by the Joint Interpretations provided for in Article 37. Except as provided in Article 24 of this Agreement, neither the Mexican Worker nor the Employer may individually or jointly change the Work Contract without the consent of the two Governments.

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[1] Not reprinted here; see 2 UST 1987–1995. The Work Contract, like the Agreement, was several times amended; for the changes, see TIAS 2586 (3 UST 4341), TIAS 3043 (5 UST 1669), and TIAS 3054 (5 UST 1794).

Article 12

LIMITATIONS ON EMPLOYMENT

The Mexican Worker shall be employed exclusively in agriculture as defined in Article 1 of this Agreement and only for an Employer authorized to contract for his services.

Article 13

CONTRACTING AT RECEPTION CENTER

The Work Contract shall be entered into between the Employer and the Mexican Worker under the supervision of a representative of each of the two Governments and such contracts shall be prepared in Spanish and in English. Such Worker shall be free to accept or decline employment with any Employer and to choose the type of agricultural employment he desires. The Employer shall be free to offer agricultural employment to any such Worker not under contract with another Employer.

Article 14

DURATION OF CONTRACT

No Work Contract or extension thereof shall be entered into for a period of less than six weeks. Extensions of Work Contracts or transfers to new Employers within the area of employment, subject to Articles 16, 26, and 27 of this Agreement, and with the consent of the Mexican Worker, the Mexican Consul and the Secretary of Labor, may be made for a minimum period of not less than 15 days. No Work Contract or any extension thereof shall be for a period of more than six months.

Workers who are residents of Mexicali, Baja California; Chihuahua, Chihuahua; and Monterrey, Nuevo León, may be contracted for four-week periods. The quota for the recruitment of Workers under the four-week contract will be 10,000 for each of these three cities. If adequate qualified Workers cannot be obtained from residents of these cities, Workers may be selected from areas adjacent thereto. To the degree possible, specialized Workers will be provided for the four-week contracts, and an effort will be made to establish a system of lists of names of Workers or job titles in order to facilitate their selection according to the type of work they shall perform.

Employers who enter into a four-week contract will be required to guarantee the Workers the opportunity for employment for at least 160 hours during this four-week period. The four-week contracts shall be printed on paper of a color distinct from that of the Standard Work Contract and shall bear the title "Special Contract for Four Weeks."

If a Worker initially contracted under a four-week contract is retained after the expiration of that contract for any portion of the grace period provided for under Article 9 of the Standard Work Contract, he shall receive a five-sixths guarantee of employment for such additional Work Days. If the Work Contract is extended after the expiration of the initial four-week period, the Worker shall, at the expiration of the four-week contract be paid any amount due him under the 160-hour guarantee and, in addition, he shall for the total period of such extension receive the three-fourths guarantee of employment provided for in Article 10 of the Standard Work Contract.

In all other respects the provisions of the Migrant Labor Agreement of 1951, as Amended, shall apply to a four-week contract to the same extent and in the same manner as they apply to contracts executed for minimum periods of six weeks or more. If a four-week contract is terminated prior to its expiration date in a manner other than provided for in Article 30 of the Migrant Labor Agreement, as Amended, the guarantee of employment shall be reduced proportionately. The minimum guarantee of 160 hours provided for in Article 10 of the Special Contract for four weeks shall apply with respect to terminations of four-week contracts made in accordance with Article 9 of the Migrant Labor Agreement with Mexico of 1951, as Amended.

Article 15

WAGES

The Employer shall pay the Mexican Worker not less than the prevailing wage rate paid to domestic workers for similar work at the time the work is performed and in the manner paid within the area of employment, or at the rate specified in the Work Contract, whichever is higher. The determination of the prevailing wage rate shall be made by the Secretary of Labor.

No certification will be issued by the Secretary of Labor under Article 10 of this Agreement on the basis of a job order specifying a wage rate which he finds has been adversely affected by the employment of illegal workers in the area.

In no case shall the Secretary of Labor make a certification on the basis of any job order which specifies a wage rate found by the Secretary of Labor to be insufficient to cover the Mexican Worker's normal living needs. In cases where the condition of a crop makes it impossible for a Mexican Worker working with normal diligence and application to earn enough at the prevailing wage rate to cover his normal living needs, even though working full time, the Secretary of Labor shall conduct an investigation, and where requested by the Mexican Consul a joint investigation shall be conducted in accordance with Article 30 of this Agreement, to determine the proper steps necessary to remedy the situation. If no satisfactory adjustment in the wage rate can be agreed upon with the Employer, the Secretary of Labor shall, if possible, arrange for a transfer of the Workers to other agricultural employment. If no such transfer can be effected within five days the Secretary of Labor shall terminate the Work

Contract, and the Employer shall, at his expense, return the Worker to the Reception Center. Nothing in this paragraph is intended to affect the provisions of Article 25 of this Agreement.

The Mexican Consuls and the Representatives of the Secretary of Labor shall exercise vigilance to insure that the wage rate paid to the Mexican Worker is not less than the prevailing wage rate for similar work in the area of employment and that wages are paid to the Mexican Workers in accordance with such rate or with any increases in such rate which may become effective in the area during the period of employment, but not below the minimum rate specified in the Work Contract. Increases in prevailing wage rates shall be put into effect immediately by the Employer and shall not be contingent upon a formal request to do so by the Mexican Worker, the Consul of Mexico, or the Representative of the Secretary of Labor. Declines in prevailing wage rates shall be recognized and accepted by the Mexican Worker, provided they do not fall below the rates specified in the Work Contract.

The Secretary of Labor shall periodically furnish the appropriate Mexican Consuls and Consuls General information with respect to the prevailing wage rates in their respective jurisdictions. The Secretary of Labor shall also furnish to the Representative of the Mexican Government in Washington like information with respect to all areas in which Mexican Workers are employed.

Any complaints concerning the failure to pay the prevailing wage rate shall be resolved by application of the procedure described in Article 30 of this Agreement.

The pay period for the Mexican Worker shall be established at intervals no less frequent than those established for the Employers' domestic workers; provided that, in no event shall the Worker be paid less frequently than bi-weekly; provided further, that the Employer may defer the payment of not to exceed a total of four days' earnings of such Mexican Worker from one pay period to the next until the final payment of wages is made to him, at which time payment shall be made of all sums due to the Mexican Worker.

The wage rates paid to the Mexican Worker may not be less than the prevailing wages for domestic laborers performing the same activity in the same area of employment as determined by the Secretary of Labor. The Secretary of Labor will give special attention, in conformity with Article 15 of the Agreement, to the fact that there shall not be issued certifications which specify a wage rate which, in his opinion, has been adversely influenced by the presence of illegal workers in the area of employment. The prevailing wage rates shall be communicated to the Secretary of Foreign Relations as the Secretary of Labor determines them but not less than once a month.

In each of the Migratory Stations of Mexico and in each of the Reception Centers of the United States there shall be fixed, in prominent places, bulletins in which are specified the prevailing wage rates for each type of employment in each area of employment in which Mexican Workers from the respective Migratory Stations and Reception Centers will be employed in order that these wage rates may be known in advance by the Mexican Workers who, in any event, may discuss them with the Employers and accept or reject them.

If the Secretary of Foreign Relations believes that the determination of the Secretary of Labor, with respect to a specific wage rate for a specific area, is incorrect he will inform the Secretary of Labor of his views in the matter, furnishing the Secretary of Labor the information upon which he bases his conclusion so that, in case the Secretary of Labor concurs in this conclusion, he may use the powers granted him by Article 15 of the Agreement to withhold certifications which include such wage rates.

In case the Secretary of Labor, after reviewing the information furnished him by the Secretary of Foreign Relations, does not find that prior determination is inaccurate a joint investigation will be undertaken by the appropriate representatives of the two Governments, if requested by the Secretary of Foreign Relations, in order that the Secretary of Labor may determine whether it is appropriate to make a new determination of the prevailing wage rate. The contracting of Workers will not be interrupted meanwhile but the Government of Mexico may inform the Workers at the Migratory Stations that a joint investigation will be made with respect to the wage rates in question. If, as a result of the joint investigation the investigators cannot reach an agreement as to the information to be submitted to the Secretary of Labor, the Government of Mexico may request the Secretary of Labor to consider any information it desires to present concerning the prevailing wages.

Article 16

GUARANTEE OF WORK

Except as otherwise provided in this Agreement, or in the Work Contract, the Employer shall guarantee the Mexican Worker the opportunity to work for at least three-fourths of the workdays of the total period during which the Work Contract and all extensions thereof are in effect, beginning on the day after such Worker's arrival at the place of employment and ending on the expiration date specified in the Work Contract or its extensions, if any.

Article 17

TRANSPORTATION BETWEEN RECEPTION CENTER AND PLACE OF EMPLOYMENT

Subject to the provisions of Article 32 of this Agreement, the Employer shall, at his expense, provide the Mexican Worker transportation and subsistence from the Reception Center at which he contracts such Worker to the place of employment. The Employer shall also, at his expense, either provide transportation and subsistence or pay for the cost of transporting such Mexican Worker from the place of employment to the Reception Center. This obligation shall apply whether the Mexican Worker returns to Mexico either upon the expiration of the Work Contract or any time prior thereto. The Employer shall not, however, be required to reimburse any Mexican Worker for such return transportation and subsistence if the Mexican Worker returns to the Reception Center or to Mexico at his own expense without affording the Employer a reasonable opportunity to provide or pay for such transportation and subsistence. If such Mexican Worker, within 3 days after leaving his place of employment, reports to the Mexican Consul or the nearest Reception Center the Mexican Consul and the Representative of the Secretary of Labor shall conduct a joint investigation pursuant to Article 30 of the Agreement to determine whether the Mexican Worker was justified in abandoning his employment without giving the Employer a reasonable opportunity to provide or pay for such return transportation. If it is jointly determined that the Mexican Worker was so justified, the Employer shall be liable for the Mexican Worker's return transportation and subsistence from the place of employment to the appropriate Reception Center.

When a Worker does not complete his contract for unjustified cause, as may be jointly decided in accordance with Article 30, the Employer shall not be obligated, under Article 17 of the Agreement to provide return transportation and subsistence to the Worker or to pay the cost thereof, except in proportion to the services rendered.

Consequently, it is understood—for example—that a Worker who terminates the contract in its third week for unjustified cause (when the contract is for six weeks) shall have the right to be paid by the Employer for the cost of half of the transportation and subsistence between the place of employment and the Reception Center.

The Employer may not make deductions from the Worker to cover the cost of return transportation and subsistence or the Worker's portion thereof. It is understood that payments will be made, in so far as possible, against the amounts owed by the Employer to the Worker; but in order to facilitate the carrying out of this provision, the Employer is authorized, in conformity with the last paragraph of Article 15, to postpone from one payment to that immediately following not to exceed a total of four days' earnings, of the wages of the Worker. It is further understood that "work day"—as defined by Article 1, paragraph (j) of the Agreement—means eight hours in each calendar day, except in those days mentioned in the same paragraph.

Article 18

MAINTENANCE OF RECORDS AND STATEMENTS OF WORK AND EARNINGS BY EMPLOYER

Each Employer shall keep accurate and adequate records in regard to the earnings and hours of employment of the Mexican Worker in his employ. Such records shall include, but shall not be limited to, information showing the number of hours worked each day, the rate of pay, the amount of work performed each day when piecework is performed and the days for which the Worker received subsistence because he was unable to work more than four hours due to inclement weather or due to the fact that he was not afforded the opportunity to work more than four hours. The Employer shall make such records available at any reasonable time for inspection by the Representative of the Secretary of Labor, or by the Representative of the Mexican Consulate when accompanied by the Representatives of the Secretary of Labor.

The Employer shall with respect to each pay period furnish in writing in both Spanish and English, to the Mexican Worker at the time the Mexican Worker is paid for such pay period, such information regarding his earnings as may be required by the Secretary of Labor. Such information shall include, but shall not be limited to, the total earnings for the pay period, the rate of pay, hours worked, days for which subsistence was paid and an itemization of all deductions.

The Employer shall also keep such additional records as may be required by the Secretary of Labor.

Article 19

OCCUPATIONAL INJURIES AND DISEASES

The employer shall provide for the Mexican Worker, at no cost to such Worker, the guarantees with respect to medical care and compensation for Personal Injury and Disease provided in Article 3 of the Work Contract.

Article 20

NOTIFICATION OF ILLNESS, DEATH OR ABANDONMENT OF WORK

The Employer shall promptly notify the Representative of the Secretary of Labor, the United States Immigration and Naturalization Service of the United States Department of Justice, and the appropriate Mexican Consul of all cases of death of Mexican Workers, whether from natural causes or accidental, and all cases of abandonment by Mexican Workers of their Work Contracts. The Employer shall also promptly notify the Representative of the Secretary of Labor and the appropriate Mexican Consul of all cases of serious illnesses or serious accidents.

Article 21

REPRESENTATIVES OF MEXICAN WORKERS

The Mexican Workers shall enjoy the right to elect their own representatives who shall be recognized by the Employer as spokesmen for the Mexican Workers for the purpose of maintaining the Work Contract between the Mexican Workers and the Employer, provided that this Article shall not affect the right of the Mexican Worker individually to contact his Employer, the Mexican Consul, or the Representative of the Secretary of Labor with respect to his employment under this Work Contract.

JOINT INTERPRETATION

"This Article is designed to assure that Mexican Workers are permitted to elect, by a majority vote, a representative for the sole purpose of presenting to their employers only those complaints arising out of the failure of the employer to comply with the Migrant Labor Agreement of 1951, as Amended, or the Work Contract.

"The elected representatives may be an individual or individuals from the workers' own numbers, or from any legitimate and bona fide labor organization and the employer must recognize such representatives as spokesmen for the workers. This interpretation does not in any way deprive the worker of the right to be represented in any case by a Mexican Consul.

"A worker may personally or through the elected representative present his claim to the employer and the employer is, under Article 21, required to deal with either the worker individually or the elected representatives on complaints arising out of the Work Contract.

"If, however, an individual worker desires to have his complaint presented by a personal representative other than one elected by the majority of the workers pursuant to Article 21, the employer is required to recognize such representative only to the extent that such recognition is required by Federal or State Law."

Article 22

STRIKES OR LOCKOUTS

No Mexican Worker shall be used to fill any job which the Secretary of Labor finds is vacant because the occupant is out on strike or locked out in the course of a labor dispute.

In the event of a strike or lockout on the farm or in the establishment in which Mexican Workers are employed which seriously affects the operations in which they are engaged, the Secretary of Labor shall make special efforts to transfer such Workers to other agricultural employment and give them preference over all other Mexican Workers. If no transfer can be arranged, the Secretary of Labor shall, without regard to Article 30, withdraw the certification covering them, in which event their respective Work Contracts shall be terminated. The Employer's obligation under Article 10 of the Work Contract shall apply only for the period beginning with the day after the Mexican Workers' arrival at the place of employment and ending with the date the Work Contract is terminated under this Article.

Article 23

OFFICIAL INSPECTIONS

The Employer shall permit the Representative of the Secretary of Labor, and officials of the United States Department of Justice access to the place of employment of Mexican Workers when necessary for these officials to carry out their responsibilities under this Agreement and under the Immigration laws of the United States.

The appropriate Mexican Consul, when exercising his rights under the Consular Convention between the United States of America and the United Mexican States formalized by the two Governments on August 12, 1942,[1] shall be given access to the place of employment of the Mexican Worker. It is intended that the visits of Mexican Consuls under this Article be coordinated with the appropriate Representatives of the Secretary of Labor.

The refusal of any Employer to permit these officials access to the place of employment shall constitute a violation of this Agreement and the Secretary of Labor may revoke the certifications issued under Article 10, and the United States Department of Justice may withdraw the authority under which the Employer was permitted to contract the Mexican Workers. The Mexican Workers shall be transferred to another Employer if such transfer can be arranged. Such transfer shall be subject to the provisions of Article 27 of this Agreement. The violating Employer shall be liable for all of the conditions of the Work Contract including the three-fourths guarantee beginning with the day after the arrival of the Mexican Worker at his place of employment and terminating with the expiration date specified in the Work Contract.

Article 24

TERMINATION OF WORK CONTRACT PRIOR TO EXPIRATION DATE

Except as otherwise provided in this Agreement and in the Work Contract, a Work Contract may be terminated prior to its expiration date only after the provisions of Article 30 have been complied with, or by mutual agreement between the Employer and the Mexican Worker with the approval of the Mexican Consul and the Representative of the Secretary of Labor. When the Work Contract is terminated by mutual agreement the three-fourths guarantee provided in Article 16 of this Agreement shall be applicable beginning with the day following the arrival of the Mexican Worker at the place of employment and ending with the date the Contract is terminated, and the Employer shall pay to the Mexican Worker all other amounts due under this Agreement and the Work Contract. The Employer further shall immediately notify the Representative of the Secretary of Labor of each such termination of the Work Contract.

Article 25

TERMINATION FOR REASONS BEYOND EMPLOYER'S CONTROL

If before the expiration date specified in the Work Contract the services of the Mexican Worker are no longer required for reasons beyond the control of the Employer, the Employer shall so notify in writing the Mexican Worker and the appropriate Representative of the Secretary of Labor. The Representative of the Secretary of Labor shall cause an investigation to be made and if he finds that the services of the Mexican Worker are no longer required for reasons beyond the control of the Employer, the Mexican Consul shall be so notified. If the Mexican Consul is not satisfied with the finding, he shall immediately so inform the Secretary of Labor and arrange for a joint investigation and determination. The joint investigation shall be directed solely at determining whether the services of the Mexican Worker are no longer required for reasons beyond the control of the Employer. If this fact is jointly determined by the Mexican Consul and the representative of the Secretary of Labor, the Secretary of Labor may endeavor, subject to the provisions of Article 27 of this Agreement, to transfer the Mexican Worker to other agricultural employment for which domestic workers cannot reasonably be obtained. If such transfer is not effected, the Secretary of Labor shall, after notification to the Mexican Consul terminate the Contract and the Mexican Worker shall be returned to the Reception Center at the Employer's expense. In the event that no joint determination can be reached by the Mexican Consul and the Representative of the Secretary of Labor, the procedure provided in Article 30 of this Agreement shall be followed.

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[1] Treaty Series 985; 57 Stat. 800.

Whenever the Work Contract is terminated under the provisions of this Article, the Employer shall be responsible for the three-fourths guarantee provided for in Article 16 for the period beginning with the day following the Mexican Worker's arrival at the place of employment and ending with the date the Contract is terminated and the Employer shall pay to the Mexican Worker all other amounts due under the Work Contract. The Work Contract will not be terminated prior to its expiration date due to the premature termination of agricultural work unless the Employer can demonstrate to the satisfaction of the Representative of the Secretary of Labor and the Mexican Consul that he could not reasonably have anticipated the events which obviate the need for the Mexican Worker's services.

Article 26

EXTENSION OF CONTRACTS

The Work Contract may be extended for additional periods of time. Except as provided in Article 14 of this Agreement, no such extension shall be for a period of less than six weeks. No Work Contract nor any extension thereof shall remain in effect beyond the expiration date of this Agreement; and no Mexican Worker shall remain in the United States for a period exceeding one year except under the following conditions:

1. In no event shall a Mexican Worker remain in the United States for a period exceeding 18 months.
2. The number of Mexican Workers who have been in the United States for a period exceeding one year shall not exceed 10 percent of the total number of Mexican Workers employed by an Employer at any time.

3. That all Mexican Workers employed in the United States under this Agreement in excess of one year will be permitted, by mutual agreement with the Employer and with the approval of the Mexican Consul, to take a furlough of not less than 20 days, beginning on or before the date of expiration of their one-year stay in the United States. The Mexican Consul will not approve a furlough during the last 30 days of the Contract unless a sound reason exists for such furlough.

4. The extension of the Work Contract shall be executed prior to the departure of the Mexican Worker on such furlough, to be effective on the date specified in the extension.

5. The Employer in such cases shall upon the return of the Mexican Worker from such furlough reimburse the Mexican Worker for the cost of transportation and subsistence in connection with such furlough from the place of employment to the point of departure from the United States and return from the point of entry into the United States to the place of employment.

6. All such extensions shall be entered into only with the consent of the Mexican Worker, the Representative of the Secretary of Labor and the appropriate Mexican Consul.

JOINT INTERPRETATION

"Article 26 of the Migrant Labor Agreement of 1951, as Amended, is construed to mean that the number of Mexican workers employed by each employer who may remain in the United States for a period over and above 12 months but not to exceed 18 months, shall be not more than 10% of the greatest number of workers employed by the same employer on any one day of the calendar year immediately preceding the calendar year in which the contracts of such workers who have completed 12 months' employment are extended."

Article 27

TRANSFER OF MEXICAN WORKERS

a) A Mexican Worker may be transferred from the area of employment specified in the certification to another area provided that:

(1) The Worker expresses his consent;

(2) There has been a prior certification of the Secretary of Labor;

(3) The Mexican Consul having jurisdiction over the area from which the transfer is contemplated has been given notice of the intention to transfer; and

(4) The Mexican Ministry for Foreign Relations does not raise any objection pursuant to Article 8 of this Agreement within ten days after notification as required by number (3) above.

b) If the transfer of the Mexican Worker involves a change of Employer before the expiration of the work period specified in the Contract, the following additional requirements shall be met:

(1) The Mexican Worker has been employed for not less than six weeks or the Work Contract has been terminated in accordance with any applicable provision of this Agreement;
(2) The new Employer, who shall be an Employer who would be eligible to contract Mexican Workers, shall enter into a Work Contract with the Mexican Worker;
(3) Except when a transfer results from a breach of contract, whenever a Mexican Worker is transferred from one Employer to another, prior to the expiration of the work period specified in the Work Contract, the transferring Employer shall be responsible for the three-fourths guarantee provided for in Article 16 for the period beginning with the day following the Mexican Worker's arrival at the place of employment and ending with the day the Contract is terminated, and before the transfer he shall pay the Mexican Worker all sums due him, in accordance with the terms of this Agreement and the Work Contract.
(4) The Mexican Ministry for Foreign Relations does not raise any objections pursuant to Article 7 of this Agreement within ten days after notification to the appropriate Mexican Consul. If such objection is made the transfer shall be subject to the provisions of Article 7 of this Agreement.

When a Worker is transferred from one place of employment to another and the transfer does not involve a change of Employer, the three-fourths guarantee specified in Article 16 of the Agreement will be applied to the total period of employment with the same Employer.

Article 28

VERIFICATION OF PAYMENT OF AMOUNTS DUE MEXICAN WORKERS

The Mexican Consulate and the Representative of the Secretary of Labor will be given a reasonable opportunity to ascertain that the Mexican Worker has been paid all amounts due him under the Work Contract or this Agreement before the Worker is transferred pursuant to the provisions of Article 27 of this Agreement or is returned to the Reception Center upon expiration or termination of the Work Contract.

Article 29

LIMITATION ON SETTLEMENT OF CLAIMS

No negotiations shall be conducted with any Employer for the settlement of any claim filed by a Mexican Worker against such Employer unless the appropriate Mexican Consul and the Representative of the Secretary of Labor participate in such negotiations and approve the settlement of the claim.

Article 30

ENFORCEMENT PROCEDURE

Compliance with this Agreement and the Work Contract shall be enforced in accordance with the following procedure:

a) No Employer or Mexican Worker shall be held to have violated, or to be in violation of the terms of this Agreement or of the Work Contract except pursuant to the procedure provided for in this Article. Any Employer or Mexican Consul or Mexican Worker may make complaint to the Secretary of Labor as to violations of this Agreement or of the Work Contract. The Mexican Worker may make such complaint either directly or through the appropriate Mexican Consul to the Representative of the Secretary of Labor. An Employer desiring to make a complaint shall make it to the Representative of the Secretary of Labor.

b) Whenever the Representative of the Secretary of Labor, through inspections, by complaint or otherwise, receives information that either the Mexican Worker or the Employer has violated or is violating terms of this Agreement or of the Work Contract, he shall immediately make a preliminary investigation for the purpose of ascertaining the facts as to the alleged violation. If the complaint is from a Mexican Consul or Mexican Worker and the Representative of the Secretary of Labor finds from such preliminary investigation that no violation has occurred, he shall report that fact to the Mexican Consul, who within 5 days may request a joint investigation as to the alleged violation. If the Mexican Consul makes such request, a joint investigation and determination shall be made in accordance with the procedure hereinafter set forth.

c) If the Representative of the Secretary of Labor finds on preliminary investigation that a violation has occurred or is occurring and the violation is of such nature that corrective measures may be taken with respect thereto, he shall immediately bring the violation to the attention of the violating party and request that such corrective measures be taken immediately. If the violating party fails or refuses to comply with this request, the Representative of the Secretary of Labor shall immediately advise the appropriate Mexican Consul. The Mexican Consul may accept the findings of the Representative of the Secretary of Labor or, at his option, may request that a joint investigation be made with respect to the alleged violation. If the Mexican Consul so requests, the Representative of the Secretary of Labor shall promptly join him in making such investigation. If the Mexican Consul accepts the findings of the Representative of the Secretary of Labor, or as a result of the joint investigation it is jointly determined that a violation exists, and

(1) The violating party is an Employer, the Secretary of Labor may, or on request of the Mexican Consul shall, subject to the right of appeal as hereinafter provided, terminate the Work Contract

and the Employer shall pay all of his obligations thereunder. The three-fourths guarantee provided in Article 16 of this Agreement, except as otherwise stated in this Agreement, shall apply to the full duration of the Contract, beginning with the day after the Mexican Worker's arrival at the place of employment; or

(2) The violating party is a Mexican Worker, who refuses to take corrective action, the Employer, subject to the right of appeal hereinafter provided, may, within five days after such determination is made, terminate the Work Contract and, without cost to the Mexican Worker, return him to the appropriate Reception Center. Any such Mexican Worker shall not be entitled to three-fourths guarantee for any portion of his Work Contract and shall not be eligible for recontracting or for future contracting.

The Secretary of Labor, when his Representative and the Mexican Consul jointly determine that the nature of the violation is such as to warrant such action, may deny the violating party the right to take corrective measures.

d) All investigations and determinations by the Representative of the Secretary of Labor and the Mexican Consul, as specified in this Article, shall be completed not later than ten days after receipt by the Representative of the Secretary of Labor of the complaint or other information as to the alleged violation.

e) In any case in which the Representative of the Secretary of Labor and the Mexican Consul cannot reach a joint determination with respect to an alleged violation of this Agreement or the Work Contract they shall immediately report such fact, together with all available evidence, to the Regional Representative of the Secretary of Labor and the appropriate Mexican Consul General, respectively, who shall refer the dispute without delay to the Secretary of Labor and the Representative of the Mexican Government in Washington, respectively, and these latter officials, shall promptly review the facts and render a final determination thereon.

f) If either of the affected parties is dissatisfied with the joint determination made by the Representative of the Secretary of Labor and the Mexican Consul, or by the findings of the Representative of the Secretary of Labor in case the Mexican Consul does not participate in a joint investigation and determination as provided in paragraph b) of this Article, he may appeal from such determination provided he gives written notice of his objections to the determination within 5 days after receipt thereof by him. In the case of an Employer, such notice shall be given to the Secretary of Labor or his Representative; in the case of a Mexican Worker such notice shall be given to the Mexican Consul in whose jurisdiction he is employed.

If such appeal is taken the notice of objections together with the evidence found and determination made in accordance with paragraph b) of this Article shall be referred without delay to the Secretary of Labor and the Representative of the Mexican Government in Washington and these officials shall promptly make a final joint determination as to the alleged violation.

g) During the course of any investigation and until the procedure provided for in this Article, including the review procedure provided for in f) has been exhausted, the *status quo* will be preserved insofar as practicable unless the Representative of the Secretary of Labor and the Mexican Consul otherwise jointly agree.

h) Any Employer or Mexican Consul or Mexican Worker who desires to make a complaint under this Agreement or under the Work Contract shall follow the procedure established in this Article.

JOINT INTERPRETATION

"To facilitate investigations and determinations made under Article 30 of the Agreement, it is understood that when a Mexican Consul or an employer is apprising the Representative of the Secretary of Labor of a complaint on the basis of which a preliminary investigation will be made by the Representative of the Secretary of Labor, the Mexican Consul or the employer, as the case may be, shall state the nature of the complaint in sufficient detail to enable the Representative of the Secretary of Labor to know in what specific respects the Agreement or the Work Contract is alleged to have been violated by either one. If the Mexican Consul disagrees with the conclusions reached by the Representative of the Secretary of Labor on the basis of the preliminary investigation and requests a joint investigation, the Mexican Consul shall specify the basis of his disagreement.

"The Agreement at present permits an employer to appeal from the joint determination of the representative of the Secretary of Labor and the Mexican Consul and requires maintenance of the *status quo* in so far as possible during the pendency of the appeal. In order to afford all due protection to the Mexican Worker, it is agreed that whenever the representative of the Secretary of Labor and the Mexican Consul jointly determine that to maintain the *status quo* would imperil the health or life of a worker they may terminate the work contract.

"The provision in Article 30 e) for forwarding compliance cases 'together with all available evidence' to Washington for a joint determination by the Representative of the Mexican Government and the Secretary of Labor because of the inability of the Mexican Consul and the Representative of the Secretary of Labor to reach a joint determination in such case, contemplates that both the Employer and the Mexican Worker be afforded an opportunity to present such additional arguments and evidence as they desire to be considered in connection with the review made at Washington.

"The same day that the case is referred to Washington, the Employer shall be advised by the Regional Representative of the Secretary of Labor and the worker by the appropriate Mexican Consul General of the action taken with respect to the case.

"The worker and the employer may, within 5 days of such notification, submit such additional arguments and evidence to Washington for consideration in connection with the final determination to be made in the case.

"No appeal is permitted as a matter of right from the joint determination made at Washington."

Article 31

DEPARTURE THROUGH RECEPTION CENTERS

Except as may otherwise be required by the laws of the United States, any Mexican Worker leaving the United States under conditions other than those provided for in this Agreement or the Work Contract shall be returned to Mexico by the Department of Justice through a Reception Center.

Article 32

GUARANTEES BY UNITED STATES GOVERNMENT

The Government of the United States guarantees the performance by Employers of the provisions of this Agreement and Work Contract relating to the payment of Wages and the furnishing of transportation. The Employer shall agree that the Secretary of Labor's determinations as to the Employer's indebtedness for Wages and transportation costs shall be final and binding upon him. The Government of the United States shall, with respect to any such amounts found to be due from a defaulting Employer, pay to the Mexican Worker the amounts determined to be due him within twenty days after the final determination has been made as to the Employer's indebtedness, or as promptly as possible thereafter.

Article 33

CONSULAR AUTHORITY TO REPRESENT THE WORKERS

Article IX of the Consular Convention between the United States of America and the United Mexican States formalized by the two Governments on August 12, 1942,[1] shall apply to Mexican Workers with respect to all rights established therein.

The appropriate Consul of Mexico is authorized to receive payment for any sums due a Mexican Worker whose address in the United States cannot be ascertained and to issue receipts in the name of the Mexican Worker. For this purpose, the Employer shall use cashier's checks payable to the Secretary of the Foreign Ministry of Mexico. The Employer and the United States Government shall be relieved of responsibility for the claims covered by such payment as soon as the check is delivered to the Mexican Consul.

JOINT INTERPRETATION

"Article 33 is construed to mean that all sums due a Mexican worker whose address cannot be ascertained, whether such amounts were earned prior or subsequent to May 19, 1952, shall be paid to the appropriate Mexican Consul by a cashier's check, a certified check, a money order or such other form of negotiable instrument as may be satisfactory to the Mexican Government, drawn in favor of both the Worker and the *Secretaria de Relaciones Exteriores de Mexico* (Ministry of Foreign Relations of Mexico), precisely in the following manner:

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[1] Treaty Series 985; 57 Stat. 800.

" '(--------------------) or Secretaria de
(Name of Mexican Worker) Relaciones
Exteriores de
Mexico

"The check shall be drawn as indicated in favor of both names.

"Uncashed checks previously issued in some other form should, if returned by the Mexican Government, be redrawn in accordance with this Interpretation.

"The employer and the United States Government are relieved of all responsibility for the claims covered by such payment as soon as the check is delivered to the Mexican Consul."

Article 34

EXEMPTION FROM MILITARY SERVICE

Mexican Workers who enter the United States of America under the terms of this Agreement shall not be required to register for military service in that country and they shall not be accepted for military service. Form I–100, issued to each Mexican Worker by the United States Department of Justice, shall constitute the proper identification to the local Selective Service Boards for exemption of such Mexican Workers from registration and from military service.

Article 35

PROTECTION OF RIGHTS UNDER UNITED STATES LAW

The Government of the United States of America agrees to exercise special vigilance and its moral influence with state and local authorities, to the end that Mexican Workers may enjoy impartially and expeditiously the rights which the laws of the United States grant to them.

Article 36

EXCLUSION OF INTERMEDIARIES

In no case shall private employment or labor contracting agencies operating for profit be permitted to participate in the contracting of Mexican Workers.

Article 37

JOINT INTERPRETATIONS

The two Governments will issue joint interpretations of the Agreement and the Work Contract whenever they deem it necessary and such interpretations shall be binding on the Representatives of both Governments, the Mexican Worker and the Employer.

Article 38

GOVERNMENT ACTION TO SUPPRESS ILLEGAL ENTRY

Both Governments acknowledge that the illegal traffic or the illegal entry of Mexican nationals is an element which impedes the effective functioning of this Agreement. Accordingly, they agree to enforce to the fullest extent the provision of their respective applicable laws and to take all possible additional measures for the elimination of such illegal traffic and entry across the International Boundary.

Article 39

TIME LIMITATIONS FOR FILING CLAIMS

a) The United States Government shall be relieved of liability as guarantor under the provisions of Article 32 of this Agreement for any sum due a Mexican Worker under this Agreement and the Work Contract unless written claim therefor is filed with the Secretary of Labor within two years from the date of termination of the Work Contract.

b) The Employer shall be relieved of liability for any obligation whatsoever due a Mexican Worker under this Agreement and the Work Contract unless written claim therefor is filed with the Employer within the time provided in the State statute of limitation for filing of such claims in the State in which the Mexican Worker was employed at the time the obligation arose.

Provided, however, that when a Mexican Worker is transferred to another Employer pursuant to this Agreement, the limitation period specified in paragraph a) of this Article shall begin on the date of termination of the Work Contract with the last such Employer to whom the Worker is so transferred.

Article 40

TRANSITIONAL PROVISIONS

All Work Contracts and all extensions thereof entered into after June 12, 1952, shall be governed by this Agreement, as amended.

Article 41

TITLE AND DURATION OF AGREEMENT

This Agreement, including Amendments to Articles 1 a), 1 b) (3), 1 j), 1 k), 4, 7, 11, 14, 15, 17, 18, 20, 21, 24, 25, 26, 27, 30, 33, 39, 40, and 41 hereof and Articles 1, 2, 3, 4, 7, 9, 10, 12, 13, 17, 19, and new Article 24, of the Standard Work Contract, shall be known as the "Migrant Labor Agreement of 1951, as Amended" and shall become effective immediately upon the exchange of Notes between the two Governments. It shall constitute an extension of the Migrant Labor Agreement of 1951 for a period not beyond December 31, 1956 unless sooner terminated by not less than thirty days' notice in writing by either of the High Contracting Parties to the other.

Canadian–United States Relations

31. ECONOMIC COOPERATION: Joint Statement of Principles, October 26, 1950[1]

The United States and Canada have achieved a high degree of cooperation in the field of industrial mobilization during and since World War II through the operation of the principles embodied in the Hyde Park Agreement of 1941,[2] through the extension of its concepts in the postwar period and more recently through the work of the Joint Industrial Mobilization Planning Committee.[3] In the interests of mutual security and to assist both Governments to discharge their obligations under the United Nations Charter and the North Atlantic Treaty, it is believed that this field of common action should be further extended. It is agreed, therefore, that our two Governments shall cooperate in all respects practicable, and to the extent of their respective executive powers, to the end that the economic efforts of the two countries be coordinated for the common defense and that the production and resources of both countries be used for the best combined results.

The following principles are established for the purpose of facilitating these objectives:

1. In order to achieve an optimum production of goods essential for the common defense, the two countries shall develop a coordinated program of requirements, production, and procurement.
2. To this end, the two countries shall, as it becomes necessary, institute coordinated controls over the distribution of scarce raw materials and supplies.
3. Such United States and Canadian emergency controls shall be mutually consistent in their objectives, and shall be so designed and

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[1] Department of State *Bulletin*, Nov. 6, 1950, p. 743. The statement was prepared pursuant to a proposal of the Joint Industrial Mobilization Planning Committee, approved by the President of the United States and the Canadian Cabinet, and incorporated in an exchange of notes of Oct. 26, 1950, between the Secretary of State and the Canadian Ambassador at Washington; *ibid.*, pp. 742–743.

[2] Agreement of Apr. 20, 1941; *A Decade of American Foreign Policy*, p. 685.

[3] This committee was established, Apr. 12, 1949, by notes exchanged on this date; Department of State *Bulletin*, Apr. 24, 1949, p. 537.

administered as to achieve comparable effects in each country. To the extent possible, there shall be consultation to this end prior to the institution of any system of controls in either country which affects the other.

4. In order to facilitate essential production, the technical knowledge and productive skill involved in such production within both countries shall, where feasible, be freely exchanged.

5. Barriers which impede the flow between Canada and the United States of goods essential for the common defense effort should be removed as far as possible.

6. The two Governments, through their appropriate agencies, will consult concerning any financial or foreign exchange problems which may arise as a result of the implementation of this agreement.

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32. ESTABLISHMENT OF A JOINT COMMITTEE ON TRADE AND ECONOMIC AFFAIRS: White House Announcement, November 12, 1953 [1]

The President today announced that the Governments of the United States and Canada have concluded an agreement establishing a joint United States-Canadian Committee on Trade and Economic Affairs. The agreement was effected by an exchange of notes between the Canadian Ambassador in Washington and the United States Secretary of State today. The Canadian members of the Committee will consist of the Secretary of State for External Affairs and the Ministers of Finance, Trade and Commerce, Agriculture or Fisheries. The United States members will be the Secretaries of State, and Treasury, Agriculture, and Commerce.

The suggestion that a joint committee of this type might be established was originally made during the visit of the Prime Minister to Washington last May. Both Governments have recognized that the free world is vitally interested in promoting a healthy flow of international trade. The activities of the Joint Committee will constitute one aspect of the efforts of both countries in promoting satisfactory trade relations on a multilateral basis throughout the free world.

The Joint Committee, which will meet at least once a year alternately in Washington and Ottawa, will consider broad questions affecting the harmonious economic relations of the two countries. After receiving reports of the Joint Committee's work each Government will have an opportunity to consider measures to improve economic relations and to encourage the flow of trade.

This announcement is being released simultaneously in Ottawa by the Department of External Affairs.

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[1] Department of State *Bulletin*, Nov. 30, 1953, pp. 739–740. For exchange of notes establishing the committee, see *ibid.*, p. 740.

33. TRADE, DEFENSE, AND THE SEAWAY AND POWER PROJECT: Joint Communiqué, November 14, 1953 [1]

During the course of President Eisenhower's state visit to Canada, the Prime Minister of Canada and members of the Canadian Cabinet had an opportunity of having informal discussions with him on matters of mutual interest to the United States and Canada. The President and the Prime Minister last reviewed some of these questions when the Prime Minister visited Washington last May.[2]

2. Views were exchanged on recent developments in the world situation and on measures which might bring about a relaxation of current international tensions. It was agreed that all efforts for peace and improved world conditions being made by the United Nations or elsewhere should be supported and the necessity of maintaining the strength, unity, and determination of the free world to resist aggression was fully recognized.

3. The President and the Prime Minister agreed on the importance to the free world of healthy national economies and of the expansion of world trade on a multilateral basis. Satisfaction was expressed at the recent establishment of a joint United States-Canadian Committee on Trade and Economic Affairs. The importance of the St. Lawrence Seaway and Power Project was emphasized, and there was full agreement on the urgency of initiating the first phase—construction of the Power Project in accordance with arrangements which already have been made between the two governments.

4. In discussing the means of strengthening the security of the free world, the importance of collective arrangements under the North Atlantic Treaty Organization was emphasized, including the special responsibility of the United States and Canada for building up the defenses of this continent. There was complete agreement on the vital importance of effective methods for joint defense, especially in the light of evidence of increasing technical capability of direct attack on both countries by weapons of great destructive power. Cooperation on joint defense matters had its origin in the Ogdensburg Agreement of 1940 [3] which established the Permanent Joint Board on Defense. In 1947 the two countries issued a joint statement [4] which set forth the principles and methods by which cooperation would be continued and strengthened. The full respect of each country for the sovereignty of the other is inherent in these principles. These principles are equally valid today when Canada and the United States, recognizing that the defense of North America must be considered as a whole, are undertaking further efforts for their joint security. The arrangements for collaboration which have proved satisfactory

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[1] Department of State *Bulletin*, Nov. 30, 1953, pp. 738–739.

[2] See the joint communiqué of May 8, 1953; *ibid.*, May 25, 1953, pp. 752–753.

[3] Joint declaration of Aug. 18, 1940, by President Roosevelt and Prime Minister Mackenzie King (*ibid.*, Aug. 24, 1940, p. 154). See also *ibid.*, Nov. 8, 1941, p. 360, and Feb. 4, 1945, p. 162.

[4] Statement of Feb. 12, 1947; *A Decade of American Foreign Policy*, pp. 686–687.

over the years provide a firm basis on which to carry forward the close relationship between Canada and the United States in matters of common defense.

34. ST. LAWRENCE SEAWAY AND POWER PROJECT: Exchange of Notes Between the Acting Secretary of State and the Canadian Ambassador in Washington, June 30, 1952[1]

CANADIAN NOTE

SIR,

I have the honour to refer to our exchange of notes of January 11, 1952, relating to the St. Lawrence Seaway and Power Project.[2] In my note to you, I informed you that the Canadian Government is prepared to proceed with the construction of the seaway as soon as appropriate arrangements can be made for the construction of the power base of the project as well.

I have been instructed by my Government to inform you that, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, the Canadian Government will construct locks and canals on the Canadian side of the International Boundary to provide for deep-water navigation to the standard specified in the proposed agreement between Canada and the United States for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941,[3] and in accordance with the specifications of the Joint Board of Engineers, dated November 16, 1926,[4] and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence project.

The undertaking of the Government of Canada with respect to these deep-water navigation facilities is based on the assumption that it will not be possible in the immediate future to obtain Congressional approval of the Great Lakes-St. Lawrence Basin Agreement of 1941. As it has been determined that power can be developed economically, without the seaway, in the International Rapids Section of the St. Lawrence River and as there has been clear evidence that entities in both Canada and the United States are prepared to develop power on such a basis, the Canadian Government has, with Parliamentary approval, committed itself to provide and maintain whatever additional works may be required to allow uninterrupted 27-foot navigation between Lake Erie and the Port of Montreal, subject to satisfactory arrangements being made to ensure the development of power.

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[1] Department of State *Bulletin*, July 14, 1952, pp. 65–67. For a compilation of pertinent documents, including a chronology (1783–1955), see *St. Lawrence Seaway Manual: A Compilation of Documents on the Great Lakes Seaway Project and Correlated Power Development* (S. Doc. No. 165, 83d Cong., 2d sess., 1955).

[2] For texts of notes, see Department of State *Bulletin*, Feb. 11, 1952, pp. 234–235.

[3] *Ibid.*, Mar. 22, 1941, pp. 307–313.

[4] S. Doc. No. 183, 69th Cong., 2d sess.

Canada's undertaking to provide the seaway is predicated on the construction and maintenance by suitable entities in Canada and the United States of a sound power project in the International Rapids Section. The features of such a power project are described in section 8 of the applications to be submitted to the International Joint Commission [1] by the Governments of Canada and of the United States. They are also described in the Agreement of December 3, 1951, between the Government of Canada and the Government of Ontario, forming part of the International Rapids Power Development Act, Chapter 13 of the Statutes of Canada, 1951, (Second Session), a copy of which is attached hereto.[2] The Canadian Government wishes to make it clear that, even were the seaway not to be constructed, Canada would not give its approval to any power development scheme in the International Rapids Section of the St. Lawrence River which omitted any of the features so described.

However, in order to ensure that construction of both the power project and the deep waterway may be commenced without any further delay and notwithstanding—

(a) that the power-developing entities would be required, if power were to be developed alone, to provide for continuance of 14-foot navigation (such provision was indeed made in the 1948 applications by the Province of Ontario and the State of New York), and that the Canadian Government's commitment to provide concurrently a deep waterway between Lake Erie and the Port of Montreal does not alter the basic principle that any entity developing power in boundary waters must make adequate provision for the maintenance of existing navigation facilities, and

(b) that, in view of the clear priority given to navigation over power by Article VIII of the 1909 Boundary Waters Treaty, provision of channeling to the extent specified in the Annex to the 1951 Canada-Ontario Agreement referred to above is reasonable and in conformity with Canadian practice,

the Canadian Government is now prepared to agree—

(a) that the amount to be paid to Canada, as specified in the Agreement of December 3, 1951, between Canada and Ontario, in lieu of the construction by the power-developing entities of facilities required for the continuance of 14-foot navigation, be excluded from the total cost of the power project to be divided between the Canadian and United States power-developing entities, in consideration of the fact that actual replacement of 14-foot navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and

(b) that the Authority to be established pursuant to the provisions of the St. Lawrence Seaway Authority Act, Chapter 24 of the Statutes of Canada, 1951 (Second Session), contribute $15 million towards the cost of the channel enlargement which the power-developing entities must undertake in the St. Lawrence River, as set out in paragraph 4 of the Annex of the Canada-Ontario Agreement of December 3, 1951, and in section 8 of the applications to the International Joint Commission, in consideration of the benefits which will accrue to navigation from such channel enlargement.

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[1] The International Joint Commission was established under the Boundary Waters Treaty of 1909 between the United States and Great Britain (for the Dominion of Canada), and is composed of three members each from Canada and the United States. For the text of the treaty see Treaty Series 548 (36 Stat. 2448).

[2] Not reprinted in the Department of State *Bulletin* or in the *St. Lawrence Seaway Manual.*

I understand that your Government approves the arrangements outlined in this note and that it is further agreed, subject to the modifications outlined in the preceding paragraph, that the Government of Canada and the Government of the United States will request the International Joint Commission to allocate equally between the two power-developing entities the cost of all the features described in Section 8 of the applications to the International Joint Commission and in the Agreement of December 3, 1951, between Canada and Ontario.

Accept [etc.]

HUME WRONG

UNITED STATES NOTE

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of June 30, 1952, in which you inform me that your Government, when all arrangements have been made to ensure the completion of the power phase of the St. Lawrence project, will construct locks and canals on the Canadian side of the International Boundary to provide deep-water navigation to the standard specified in the proposed agreement between the United States and Canada for the development of navigation and power in the Great Lakes-St. Lawrence Basin, signed March 19, 1941, and in accordance with the specifications of the Joint Board of Engineers, dated November 16, 1926, and that such deep-water navigation shall be provided as nearly as possible concurrently with the completion of the power phase of the St. Lawrence project.

My Government approves the arrangements set forth in your note and, subject to the modifications there proposed and outlined below, agrees to request the International Joint Commission to allocate equally between the power-developing entities the cost of all the features described in Section 8 of the applications to the International Joint Commission and in the Agreement of December 9, 1951, between the Governments of Canada and Ontario.

These modifications are:

(a) the amount to be paid to Canada, as specified by the Agreement of December 3, 1951, between Canada and Ontario, in lieu of the construction by the power-developing entities of facilities required for the continuance of 14-foot navigation, be excluded from the total cost of the power project to be divided between the Canadian and United States power-developing entities, in consideration of the fact that actual replacement of 14-foot navigation facilities will be rendered unnecessary by reason of the concurrent construction of the deep waterway in Canada, and

(b) that the Authority to be established pursuant to the provisions of the St. Lawrence Seaway Authority Act, chapter 24 of the Statutes of Canada, 1951 (Second Session), contribute $15 million toward the cost of channel enlargement which the power developing entities must undertake in the St. Lawrence River, as set out in Section 8 of the applications to the International Joint Commission and in paragraph 4 of the Annex to the Canadian-Ontario Agreement of December 3, 1951, in consideration of the benefits which will accrue to navigation from such channel enlargement.

Accept [etc.].

DAVID BRUCE

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35. APPLICATIONS FOR POWER DEVELOPMENT ON THE ST. LAWRENCE: Order of Approval of the International Joint Commission on Its Docket No. 68, October 29, 1952 (Excerpts)[1]

WHEREAS the Government of Canada and the Government of the United States of America under date of 30 June, 1952, have submitted Applications[2] to the International Joint Commission (hereinafter referred to as the "Commission") for its approval of the construction, jointly by entities to be designated by the respective Governments, of certain works for the development of power in the International Rapids Section of the St. Lawrence River, these being boundary waters within the meaning of the Preliminary Article of the Boundary Waters Treaty of 11 January, 1909[3] (hereinafter referred to as the "Treaty"), and of the construction, maintenance and operation of such works subject to and under conditions specified in the Applications, and have requested that the Applications be considered by the Commission as in the nature of a joint application; and

WHEREAS pursuant to the aforementioned request of the two Governments, the Commission is considering the two Applications as in the nature of a joint application; and

WHEREAS notices that the Applications had been filed were published in accordance with the Rules of Procedure of the Commission; and

WHEREAS Statements in Response to the Applications and Statements in Reply thereto by both Applicants were filed in accordance with the Rules of the Commission; and

WHEREAS pursuant to published notices, hearings were held by the Commission at Toronto, Ontario, on 23 July, 1952; at Ogdensburg, New York, on 24 July, 1952; at Cornwall, Ontario, on 25 July, 1952; at Albany, New York, on 3 September, 1952; at Montreal, Quebec, on 8 September, 1952; and at Washington, D. C., on 20 October, 1952;[4] and

WHEREAS by reason of the said notices of the said applications and hearings, all persons interested were afforded convenient opportunities of presenting evidence to and being heard before the Commission; and

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[1] Department of State *Bulletin*, Dec. 29, 1952, pp. 1019–1021.

[2] *St. Lawrence Seaway Manual*, pp. 120–135.

[3] Treaty Series 548; 36 Stat. 2448.

[4] Not published.

WHEREAS, pursuant to the said Applications, the hearings before, the evidence given, and material filed with the Commission, the Commission is satisfied that the proposed works and uses of the waters of the International Rapids Section comply with the principles by which the Commission is governed as adopted by the High Contracting Parties in Article VIII of the Treaty; and

WHEREAS the Commission has been informed that the Government of Canada has designated The Hydro-Electric Power Commission of Ontario as the entity to construct, maintain and operate the proposed works in Canada, and that the Government of the United States intends in due course to designate the entity to construct, maintain and operate the works in the United States; and

WHEREAS the program of construction of the works, as proposed by the Applicants, includes the removal of Gut Dam from the International Rapids Section and the Government of Canada has informed the Commission that it is its intention to take steps for the early removal of Gut Dam as soon as the construction of the proposed works is approved and as soon as river conditions and the protection of down river and other interests that will be affected during its removal will permit, thereby advancing the time of removal of Gut Dam;[1] and

WHEREAS the Commission finds that suitable and adequate provision is made by the laws in Canada and by the Constitution and laws in the United States for the protection and indemnity of all interests on either side of the International Boundary which may be injured by reason of the construction, maintenance and operation of the works; and

WHEREAS the Commission finds that it has jurisdiction to hear and dispose of the Applications by approval thereof in the manner and subject to the conditions hereinafter set out;

NOW, THEREFORE, IT IS ORDERED that the construction, maintenance and operation jointly by the Hydro-Electric Power Commission of Ontario and an entity to be designated by the Government of the United States of America of certain works (hereinafter called "the works") in accordance with the "Controlled Single Stage Project (238–242)", which was part of the joint report dated 3 January, 1941, of the Canadian Temporary Great Lakes-St. Lawrence Basin Committee and the United States St. Lawrence Advisory Committee,[2] containing the features described in Appendix "A"[3] to this Order and shown in Appendix "B"[4] to this Order, be and the same are hereby approved subject to the conditions enumerated below, namely,

(*a*) All interests on either side of the International Boundary which are injured by reason of the construction, maintenance and operation of the works shall be given suitable and adequate protection and indemnity in accordance with the laws in Canada or the Constitution and laws in the United States respectively, and in accordance with the requirements of Article VIII of the Treaty.

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[1] Demolition of the dam was completed on Dec. 15 [1952]. [Footnote in the original.]

[2] Department of State *Bulletin*, Mar. 22, 1941, pp. 316–318.

[3] *Ibid.*, Dec. 29, 1952, p. 1021 (not reprinted here).

[4] Appendix B, a map, was not reproduced in the Department of State *Bulletin* or in the *St. Lawrence Seaway Manual*.

(*b*) The works shall be so planned, located, constructed, maintained and operated as not to conflict with or restrain uses of the waters of the St. Lawrence River for purposes given preference over uses of water for power purposes by the Treaty, namely, uses for domestic and sanitary purposes and uses for navigation, including the service of canals for the purposes of navigation, and shall be so planned, located, constructed, maintained and operated as to give effect to the provisions of this Order.

(*c*) The works shall be constructed, maintained and operated in such manner as to safeguard the rights and lawful interests of others engaged or to be engaged in the development of power in the St. Lawrence River below the International Rapids Section.

(*d*) The works shall be so designed, constructed, maintained and operated as to safeguard so far as possible the rights of all interests affected by the levels of the St. Lawrence River upstream from the Iroquois regulatory structure and by the levels of Lake Ontario and the lower Niagara River;[1] and any change in levels resulting from the works which injuriously affects such rights shall be subject to the requirements of paragraph (*a*) relating to protection and indemnification.

(*e*) The hydro-electric plants approved by this Order shall not be subjected to operating rules and procedures more rigorous than are necessary to comply with the provisions of the foregoing paragraphs (*b*), (*c*) and (*d*).

(*f*) Before the Hydro-Electric Power Commission of Ontario commences the construction of any part of the works, it shall submit to the Government of Canada, and before the entity designated by the Government of the United States commences the construction of any part of the works, it shall submit to the Government of the United States, for approval in writing, detailed plans and specifications of that part of the works located in their respective countries and details of the program of construction thereof or such details of such plans and specifications or programs of construction relating thereto as the respective Governments may require. If after any plan, specification or program has been so approved, The Hydro-Electric Power Commission of Ontario or the entity designated by the Government of the United States wishes to make any change therein, it shall, before adopting such change, submit the changed plan, specification or program for approval in a like manner.

(*g*) In accordance with the Applications, the establishment by the Governments of Canada and of the United States of a Joint Board of Engineers to be known as the St. Lawrence River Joint Board of Engineers (hereinafter referred to as the "Joint Board of Engineers") consisting of an equal number of representatives of Canada and the United States to be designated by the respective Governments, is approved. The duties of the Joint Board of Engineers shall be to review and coordinate, and, if both Governments so authorize, approve the plans and specifications of the works and the programs of construction thereof submitted for the approval of the respective Governments as specified above, and to assure the construction of the works in accordance therewith as approved. The Joint Board of Engineers shall consult with and keep the Board of Control, hereinafter referred to, currently informed on all matters pertaining to the water levels of Lake Ontario and the International Rapids Section and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section, and shall give full consideration to any advice or recommendations received from the Board of Control with respect thereto.

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[1] For a summary of the problem of the high-water level in Lake Ontario, see Department of State *Bulletin*, June 9, 1952, p. 903. Complaints of property owners were referred to the International Joint Commission on June 25, 1952 (*ibid.*, July 14, 1952, p. 67). [Footnote in the original.]

(*h*) A Board of Control to be known as the International St. Lawrence River Board of Control (herein referred to as the "Board of Control") consisting of an equal number of representatives of Canada and of the United States, shall be established by this Commission. The duties of the Board of Control shall be to give effect to the instructions of the Commission as issued from time to time with respect to this Order.

During construction of the works the duties of the Board of Control shall be to keep itself currently informed of the plans of the Joint Board of Engineers insofar as these plans relate to water levels and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section, and to consult with and advise the Joint Board of Engineers thereon.

Upon completion of the works, the duties of the Board of Control shall be to ensure that the provisions of this Order relating to water levels and the regulation of the discharge of water from Lake Ontario and the flow of water through the International Rapids Section as herein set out are complied with, and The Hydro-Electric Power Commission of Ontario and the entity designated by the Government of the United States shall duly observe any direction given them by the Board of Control for the purpose of ensuring such compliance. The Board of Control shall report to the Commission at such times as the Commission may determine.

In the event of any disagreement amongst the members of the Board of Control which they are unable to resolve, the matter shall be referred by them to the Commission for decision. The Board of Control may, at any time, make representations to the Commission in regard to any matter affecting or arising out of the terms of this Order with respect to water levels and the regulation of the said discharge and flow.

. . . .

AND IT IS FURTHER ORDERED that the allocation set out in Appendix "C" [1] of the costs of constructing, maintaining and operating the works approved by this order between the Hydro-Electric Power Commission of Ontario and the entity to be designated by the Government of the United States be and the same is hereby approved but such approval shall not preclude the applicants from submitting to the Commission for approval any variation in the said allocation that may be agreed upon between them as being appropriate or advisable.

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[1] For Appendix C, see Department of State *Bulletin*, Dec. 29, 1952, pp. 1021–1022 (not reprinted here).

AND IT IS FURTHER ORDERED that the Commission retains jurisdiction over the subject matter of these Applications, and may, after giving such notice and opportunity to all interested parties to make representations as the Commission deems appropriate, make such further Order or Orders relating thereto as may be necessary in the judgment of the Commission.

Signed at Montreal, this 29th day of October, 1952.[1]

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36. SPECIAL CABINET COMMITTEE RECOMMENDATIONS ON THE ST. LAWRENCE SEAWAY PROJECT: White House Press Release, May 8, 1953 [2]

The Cabinet on May 8 unanimously approved a report by a special Cabinet Committee, appointed by the President to study the St. Lawrence–Great Lakes Seaway project. The Committee consisted of representatives of the Departments of State, Defense, Commerce, and the Interior.

The Committee proposed, and the Cabinet agreed, that participation by the United States in the seaway project is highly desirable, provided such participation is limited to the international section of the St. Lawrence between Lake Erie and Montreal.

The recommendation is consistent with the administration's policy of considering each major construction project on its merits and in terms of whether it should be a Federal, local, or private project or a combination of any two or all.

The recommendations of the Committee, as approved by the Cabinet, follow:

1. The interests of the United States, taken as a whole, make desirable participation in the St. Lawrence–Great Lakes Seaway project, limited to the international section of the St. Lawrence between Lake Erie and Montreal.

2. Participation by the United States should, however, be expressly conditioned on: (*a*) Satisfactory assurance that the underlying power project will go ahead, pursuant to appropriate authorization; (*b*) satisfactory assurance that Canada will go ahead with its part of the navigation project, in cooperation with the United States; and (*c*) predication of the project on a self-liquidating basis. The Committee is

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[1] Commissioner Roger McWhorter dissenting. His opinion, to be filed and attached to order, is not reprinted here; see *ibid.*, pp. 1022–1023.

[2] Department of State *Bulletin*, May 25, 1953, pp. 752–753.

of the opinion that these conditions are reasonable and consistent with national policy.

3. Participation by the United States now in the construction and operation of a St. Lawrence River Seaway would increase its defense advantages to this country, and would in time of emergency assure it of full benefits of joint participation.

4. Participation by the United States now in the project would strengthen our strategic position at all times respecting use of the seaway for transportation of basic materials.

5. Construction of the international rapids section canals on the U. S. side would be more economical than construction on the Canadian side and would result in lower tolls, and, because of its design, the American project would constitute in certain aspects a superior navigation facility.

6. The Committee is of the opinion that the St. Lawrence Seaway, Lake Erie to Montreal, so constructed and operated, would be self-liquidating over a projected period of 50 years.

7. The Committee feels that the early initiation and completion of the St. Lawrence–Great Lakes Seaway project in accordance with the recommendations contained in this report is in the national interest.

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37. THE ECONOMIC BASIS FOR THE ST. LAWRENCE SEAWAY: Conclusions of the Senate Foreign Relations Committee, June 16, 1953 (Excerpts)[1]

The committee is profoundly aware of the extensive studies, surveys, debates, and discussions which have attended the St. Lawrence project throughout the years, and of the many arguments advanced for and against the seaway. After careful consideration of all of the arguments, the committee is convinced that the United States participation in the St. Lawrence seaway project, Lake Erie to Montreal, is in the interest of the security of the United States, is economically desirable and sound, will pay for itself out of its earnings, and is a wise undertaking for the United States and Canada to build and operate jointly. Its true perspective is continental and its final results must inevitably be continental in their impact.

The seaway will permit the little-developed but rich Labrador ores to be brought to the heart of the steel industry of the United States at a low cost and thus supplement the domestic and foreign supplies of American ores. The routes of shipping are shown on the map (attached hereto).[2] New markets will be available to the Midwest and needed raw materials and other commodities will be made available to the consumers of the region by low-water transportation costs. New industries are bound to spring up and greater prosperity throughout the Midwest area will undoubtedly be reflected in a stepped-up well-being of the United States.

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[1] S. Rept. No. 441, 83d Cong., 1st sess., pp. 23–25; reprinted in *St. Lawrence Seaway Manual*, pp. 73–75.

[2] Not reprinted here.

The committee is firmly convinced that that which increases the prosperity of a large portion of the United States will inevitably increase the prosperity of the whole Nation. Indeed, employment and production opportunities would be created by the initial construction and the stimulus of the modern waterway would be lasting upon the completion of the project.

Every governmental survey made, both here and in Canada, irrespective of the cost of estimates, has been favorable to the project. The case has been overwhelmingly approved, especially with iron ore and power supply problems we now face. Plans are ready and the work should proceed. Every American President since 1923 has supported the seaway [,] and the executive branch of the Government has shown convincingly and unanswerably that the project is engineeringly feasible and economically justified. A most imposing array of outstanding citizens have backed the seaway and continue to do so. Nature has provided a 90 percent complete waterway—a seaway that will provide an all-water route to Europe with a thousand miles less open water from the heart of the continent than the routes from our Atlantic ports. Only 10 percent, particularly the 114 miles in the St. Lawrence River, needs to be constructed.

The Great Lakes–St. Lawrence seaway stands in a class by itself in that it can be made self-liquidating. No such potential traffic could be visualized for either the Panama Canal or the Suez Canal as is now anticipated for the St. Lawrence seaway. While in the initial stages the project is to be financed with the assistance of the Federal Government, the seaway ultimately will be built and operated at no cost to the taxpayer. The tolls on the traffic using the navigation facilities will make the project self-liquidating. The related power phase will represent no cost to the Federal Government since the State of New York has been granted a license to construct the power facilities jointly with the Hydroelectric Power Commission of Ontario and to share the costs previously classified as common to power and navigation.

The committee is convinced that the seaway will not over the years injure existing ports and other transportation facilities. Such loss as may be entailed by the Atlantic and gulf ports from diverted traffic will be more than offset by new traffic and demands on those ports growing out of the expanded activities attendant upon the construction and operation of the seaway. While New York, Boston, Baltimore, and other coastal ports may conceivably at first suffer some loss of traffic, they will all gain in the long run from the new business, and it is not thought that other ports would suffer at all. Indeed, they would be expected to gain.

The seaway will undoubtedly benefit the general economy by reducing transportation costs and by providing a new and auxiliary route and facility in addition to those already in existence. Savings as high as 50 percent in transportation costs for some commodities have been estimated to destinations in the heart of the United States. The committee is convinced from testimony presented that domestic shipping, including a large block of iron ore not now moving over the railroads or coastal ports, will use the seaway and will profit by its existence. Ships go wherever there is assurance of a cargo. As far as navigation conditions are concerned, the present obsolete 14-foot canal is being used profitably, despite the inadequacy for meeting present demands, and during the navigation period, weather conditions are favorable to extensive navigation. Montreal has on an average of 4 foggy days during the navigation period, while New York has 44. Foreign vessels are prohibited by law from engaging in trade between American ports on the Great Lakes, so there would be no danger of competition from foreign vessels in United States coastwide trade.

. . . .

In answer to the many arguments presented against the seaway, the committee has the following observations to make. The project is financially sound and can be made self-liquidating. The estimates of the costs are reasonable and there is every expectation that all contingencies have been provided for as far as is humanly possible. The seaway will not be a duplicating but a supplementary and complementary system of transportation. The seaway is practical and safe as a route of transportation, and will constitute no exceptional problem of defense in case of war.

To enter upon this project by legislation is both feasible and constitutional. The Constitution gives Congress the "power to regulate commerce with foreign nations and among the several States . . ." This power has often been exercised with respect to projects in boundary waters and in foreign territory pursuant to agreements and in cooperation with foreign countries. Many agreements of at least comparable importance, including the annexation of Texas[1] and Hawaii,[2] and the Bretton Woods agreement,[3] have been dealt with through legislation rather than by the treaty process. Moreover, the Boundary Waters Treaty of 1909 with Canada[4] prescribed a procedure for concluding agreements through reciprocal legislation of the two countries with respect to the proposed uses, constructions, and diversions of boundary waters.

The seaway will constitute an important part of our system of national defense. It will provide an alternate route for low-cost mass movement of vitally needed iron ore to our steel arsenal. It will provide access to shipbuilding and ship-repair facilities located in a relatively secure area to supplement coastal shipyards. It will furnish an additional needed line of communication for ocean shipping which can ease wartime strain on rail transportation and the port facilities of the gulf and Atlantic coasts. It is needed as a reserve route in case of interruptions of other routes. The seaway would be a valuable part of the national defense of Canada and the United States while the related hydroelectric power will be available for defense industries and is urgently needed for the general economy of the market region both in Canada and in the United States. It is by reason of this urgency for making this low-cost power available as quickly as possible that has removed the power development from the project facilities which require the attention of Congress at this time.

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[1] Joint Res. No. 8, Mar. 1, 1845, 28th Cong., 2d sess., gave the consent of Congress to the designation of Texas as a State eligible for admission into the Union; Joint Res. No. 1, Dec. 29, 1845, 29th Cong., 1st sess. (9 Stat. 108) admitted Texas into the Union.

[2] Joint Res. No. 55, July 7, 1898, 55th Cong., 2d sess. (30 Stat. 750–751).

[3] Bretton Woods Agreements Act, July 31, 1945; PL 171, 79th Cong., 1st sess. (59 Stat. 512).

[4] Treaty Series 548; 36 Stat. 2448.

The administration's approval and support of United States participation in construction of a 27-foot waterway in the international section of the St. Lawrence rests on its conclusion that such a draft is sufficient to meet our security needs respecting import of ore from Labrador, general expansion of use by deeper draft vessels for the benefit of our economy in the Great Lakes area, and in connection with increased shipbuilding and repair activities on the lakes as a defense measure. Removal of the present 14-foot bottleneck on the St. Lawrence River will make all of these things possible. The committee accepts this reasoning as sound. A 27-foot channel would accommodate practically all the present Great Lakes fleet—consisting of 413 United States vessels of deadweight capacity 3,600,000 tons. Concerning the contention of opponents that the 27-foot project is obsolete because it will accommodate only 4 percent of our seagoing fleet fully loaded in terms of draft, the following should be noted: 75 percent of the traffic will be transported in lake-type vessels which can be satisfactorily handled by the 27-foot channel; thus only 25 percent of the traffic is subject to movement in seagoing ships; the majority of our general cargo seagoing ships can ply the 27-foot channel with profitable pay loadings.

Perhaps there is no more telling argument in favor of S. 2150[1] than that Canada has decided to build a seaway with or without the United States. Canada has completed substantial improvements and has now determined to go ahead with an all-Canadian route if the United States does not participate, conditioned only on the power phase being placed under construction. Since the seaway is a joint interest of both the United States and Canada, the committee is convinced that the United States should join Canada in promptly completing the seaway. Thus, in assuming an equitable share of the costs of construction, we shall have an equitable share in its operation and administration—a voice in determining tolls, commodity by commodity, rules of measurement, amount of tolls after the payoff period, etc. Since by far the dominant portion of the traffic will either originate or terminate in the United States, it is obvious that business interests in our country are vitally concerned, as demonstrated by tolls discussions on the Panama Canal.

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[1] S. 2150 (as amended by the House of Representatives), called also the Wiley-Dondero Act, became PL 358 (see *infra* for text).

38. ST. LAWRENCE SEAWAY CORPORATION: Public Law 358 (83d Congress, 2d Session), May 13, 1954[1]

AN ACT

Providing for creation of the Saint Lawrence Seaway Development Corporation to construct part of the Saint Lawrence Seaway in United States territory in the interest of national security; authorizing the Corporation to consummate certain arrangements with the Saint Lawrence Seaway Authority of Canada relative to construction and operation of the seaway; empowering the Corporation to finance the United States share of the seaway cost on a self-liquidating basis; to establish cooperation with Canada in the control and operation of the Saint Lawrence Seaway; to authorize negotiations with Canada of an agreement on tolls; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CREATION OF CORPORATION

SECTION 1. There is hereby created, subject to the direction and supervision of the President, or the head of such agency as he may designate,[2] a body corporate to be known as the Saint Lawrence Seaway Development Corporation (hereinafter referred to as the "Corporation").

MANAGEMENT OF CORPORATION

SEC. 2. (a) The management of the Corporation shall be vested in an Administrator[3] who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $17,500 per annum.

(b) To assist the Administrator in the execution of the functions vested in the Corporation there shall be a Deputy Administrator[4] who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $16,000 per annum. The Deputy Administrator shall perform such duties as the Administrator may from time to time designate, and shall be acting Administrator and perform the functions of the Administrator during the absence or disability of the Administrator or in the event of a vacancy in the Office of the Administrator.

(c) There is hereby established the Advisory Board[5] of the Saint

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[1] 68 Stat. 92–97.

[2] Ex. Or. No. 10534, June 9, 1954 (19 *Fed. Reg.* 3413), designated the Secretary of Defense to direct and supervise the corporation; Department of State *Bulletin*, June 21, 1954, p. 959.

[3] Lewis G. Castle was nominated by the President on June 23, 1954, and confirmed by the Senate on July 1, 1954.

[4] M. W. Oettershagen was nominated, Aug. 7, 1954, and confirmed, Aug. 16, 1954.

[5] John C. Beukema, Harry C. Brockel, Kenneth M. Lloyd, Hugh Moore, and Edward J. Noble, whose appointments were confirmed, Aug. 16, 1954.

Lawrence Seaway Development Corporation, which shall be composed of five members appointed by the President, by and with the advice and consent of the Senate, not more than three of whom shall belong to the same political party. The Advisory Board shall meet at the call of the Administrator, who shall require it to meet not less often than once each ninety days; shall review the general policies of the Corporation, including its policies in connection with design and construction of facilities and the establishment of rules of measurement for vessels and cargo and rates of charges or tolls; and shall advise the Administrator with respect thereto. Members of the Advisory Board shall receive for their services as members compensation of not to exceed $50 per diem when actually engaged in the performance of their duties, together with their necessary traveling expenses while going to and coming from meetings.

FUNCTIONS OF CORPORATION

SEC. 3. (a) The Corporation is authorized and directed to construct, in United States territory, deep-water navigation works substantially in accordance with the "Controlled single stage project, 238–242" (with a controlling depth of twenty-seven feet in channels and canals and locks at least eight hundred feet long, eighty feet wide, and thirty feet over the sills), designated as "works solely for navigation" in the joint report dated January 3, 1941,[1] of the Canadian Temporary Great Lakes-Saint Lawrence Basin Committee and the United States Saint Lawrence Advisory Committee, in the International Rapids section of the Saint Lawrence River together with necessary dredging in the Thousand Islands section; and to operate and maintain such works in coordination with the Saint Lawrence Seaway Authority of Canada, created by chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15–16, George VI (assented to December 21, 1951): *Provided*, That the Corporation shall not proceed with the aforesaid construction unless and until—

(1) the Saint Lawrence Seaway Authority of Canada provides assurances satisfactory to the Corporation that it will complete the Canadian portions of the navigation works authorized by section 10, chapter 24 of the acts of the fifth session of the Twenty-first Parliament of Canada 15–16, George VI, 1951, as nearly as possible concurrently with the completion of the works authorized by this section;

(2) the Corporation has received assurances satisfactory to it that the State of New York, or an entity duly designated by it, or other licensee of the Federal Power Commission, in conjunction with an appropriate agency in Canada, as nearly as possible concurrently with the navigation works herein authorized, will

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[1] Department of State *Bulletin*, Mar. 22, 1941, pp. 316–318. In an exchange of notes between the United States and Canada on Feb. 21 and 22, 1955, the United States agreed not to construct facilities for 27-foot navigation near Rockaway Point, N. Y., opposite Iroquois, Ontario (as directed by the act) inasmuch as Canada had initiated action for construction at Iroquois; *ibid.*, Mar. 14, 1955, p. 437.

construct and complete the dams and power works approved by the International Joint Commission in its order of October 29, 1952 (docket 68) [1] or any amendment or modification thereof.

(b) The Corporation shall make necessary arrangements to assure the coordination of its activities with those of the Saint Lawrence Seaway Authority of Canada and the entity designated by the State of New York, or other licensee of the Federal Power Commission, authorized to construct and operate the dams and power works authorized by the International Joint Commission in its order of October 29, 1952 (docket 68) or any amendment or modification thereof.

CORPORATE POWERS

SEC. 4. (a) For the purpose of carrying out its functions under this joint resolution the Corporation—

(1) shall have succession in its corporate name;

(2) may adopt and use a corporate seal, which shall be judicially noticed;

(3) may sue and be sued in its corporate name;

(4) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(5) may make and carry out such contracts or agreements as are necessary or advisable in the conduct of its business;

(6) shall be held to be an inhabitant and resident of the northern judicial district of New York within the meaning of the laws of the United States relating to venue of civil suits;

(7) may appoint and fix the compensation, in accordance with the provisions of the Classification Act of 1949,[2] of such officers, attorneys, and employees as may be necessary for the conduct of its business, define their authority and duties, delegate to them such of the powers vested in the Corporation as the Administrator may determine, require bonds of such of them as the Administrator may designate, and fix the penalties and pay the premiums on such bonds;

(8) may acquire, by purchase, lease, condemnation, or donation such real and personal property and any interest therein, and may sell, lease, or otherwise dispose of such real and personal property, as the Administrator deems necessary for the conduct of its business; and

(9) shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed and paid, subject to provisions of law specifically applicable to Government corporations.

FINANCING

SEC. 5. In order to finance its activities, the Corporation is authorized and empowered to issue to the Secretary of the Treasury, from time to time and to have outstanding at any one time in an amount not exceeding $105,000,000, its revenue bonds which shall be payable from corporate revenues: *Provided*, That not to exceed 10 per centum of the revenue bonds herein authorized shall be issued during the first year after the effective date of this Act and not to exceed 40 per centum during any year thereafter. Such obligations shall have maturities agreed upon by the Corporation and the Secretary of the Treasury, not in excess of fifty years. Such obligations may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations, but the obligations thus redeemed shall not be refinanced by the Corporation. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on current marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the obligation of the Corporation. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Corporation to be issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act,[1] as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the Corporation's obligations hereunder.

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[1] *Supra*, doc. 35.

[2] Act of Oct. 28, 1949; 63 Stat. 954–973.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 6. Section 101 of the Government Corporation Control Act [2] is hereby amended by inserting after the words "Federal Housing Administration" the words "Saint Lawrence Seaway Development Corporation".

PAYMENTS IN LIEU OF TAXES

SEC. 7. The Corporation is authorized to make payments to State and local governments in lieu of property taxes upon property which was subject to State and local taxation before acquisition by the Corporation. Such payments may be in the amounts, at the times, and upon the terms the Corporation deems appropriate, but the Corporation shall be guided by the policy of making payments not in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens are placed upon the State or local government by the activities of the Corporation or its agents. The Corporation, its property, franchises, and income are hereby expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision thereof, but such exemption shall not extend to contractors for the Corporation.

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[1] Act of Nov. 24, 1917; 40 Stat. 288.

[2] Act of Dec. 6, 1945; 59 Stat. 597.

SERVICES AND FACILITIES OF OTHER AGENCIES

SEC. 8. (a) The Corporation may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Corporation shall, upon request of the Administrator, make such data available to the Corporation without reimbursement.

(b) The Corporation shall contribute to the civil-service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the civil-service retirement system applicable to the Corporation's employees and their beneficiaries. The Corporation shall also contribute to the employee's compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Corporation into the Treasury as miscellaneous receipts.

MISAPPROPRIATION OF FUNDS

SEC. 9. (a) All general penal statutes relating to the larceny, embezzlement, or conversion, of public moneys or property of the United States shall apply to the moneys and property of the Corporation.

(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both.

REPORTS TO CONGRESS

SEC. 10. The Corporation shall submit to the President for transmission to the Congress at the beginning of each regular session an annual report of its operations under this Act.

SEPARABILITY OF PROVISIONS

SEC. 11. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

RATES OF CHARGES OR TOLLS

SEC. 12. (a) The Corporation is further authorized and directed to negotiate with the Saint Lawrence Seaway Authority of Canada, or such other agency as may be designated by the Government of Canada, an agreement as to the rules for the measurement of vessels and cargoes and the rates of charges or tolls to be levied for the use of the Saint Lawrence Seaway, and for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada. Such rules for the measurement of vessels and cargoes and rates of charges or tolls shall, to the extent practicable, be established or changed only after giving due notice and holding a public hearing. In the event that such negotiations shall not result in agreement, the Corporation is authorized and directed to establish unilaterally such rules of measurement and rates of charges or tolls for the use of the works under its administration: *Provided, however*, That the Corporation shall give three months' notice, by publication in the Federal Register, of any proposals to establish or change unilaterally the basic rules of measurement and of any proposals to establish or change unilaterally the rates of charges or tolls, during which period a public hearing shall be conducted. Any such establishment of or changes in basic rules of measurement or rates of charges or tolls shall be subject to and shall take effect thirty days following the date of approval thereof by the President, and shall be final and conclusive, subject to review as hereinafter provided. Any person aggrieved by an order of the Corporation establishing or changing such rules or rates may, within such thirty-day period, apply to the Corporation for a rehearing of the matter upon the basis of which the order was entered. The Corporation shall have power to grant or deny the application for rehearing and upon such rehearing or without further hearing to abrogate or modify its order. The action of the Corporation in denying an application for rehearing or in abrogating or modifying its order shall be final and conclusive thirty days after its approval by the President unless within such thirty-day period a petition for review is filed by a person aggrieved by such action in the United States Court of Appeals for the circuit in which the works to which the order applies are located or in the United States Court of Appeals for the District of Columbia. The court in which such petition is filed shall have the same jurisdiction and powers as in the case of petitions to review orders of the Federal Power Commission filed under section 313 (b) of the Federal Power Act [1] (16 U. S. C. §825*l*). The judgment of the court shall be final subject to review by the Supreme Court upon certiorari or certification as provided in sections 1254 (1) and 1254 (3) of title 28 of the United States Code. The filing of an application for rehearing shall not, unless specifically ordered by the Corporation, operate as a stay of the Corporation's order. The filing of a petition for review shall not, unless specifically ordered by the court, operate as a stay of the Corporation's order.

(b) In the course of its negotiations, or in the establishment, unilaterally, of the rates of charges or tolls as provided in subsection (a), the Corporation shall be guided by the following principles:

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[1] Act of Aug. 26, 1935; 49 Stat. 860.

(1) That the rates shall be fair and equitable and shall give due consideration to encouragement of increased utilization of the navigation facilities, and to the special character of bulk agricultural, mineral, and other raw materials.

(2) That rates shall vary according to the character of cargo with the view that each classification of cargo shall so far as practicable derive relative benefits from the use of these facilities.

(3) That the rates on vessels in ballast without passengers or cargo may be less than the rates for vessels with passengers or cargo.

(4) That the rates prescribed shall be calculated to cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, including depreciation, payment of interest on the obligations of the Corporation, and payments in lieu of taxes.

(5) That the rates shall provide, in addition, for the Corporation revenues sufficient to amortize the principal of the debts and obligations of the Corporation over a period not to exceed fifty years.

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39. ST. LAWRENCE SEAWAY PROJECT: Exchange of Notes Between the United States Chargé d'Affaires at Ottawa and the Canadian Secretary of State for External Affairs, August 17, 1954 [1]

CANADIAN NOTE

Note No. X-214 OTTAWA, *August 17, 1954*

SIR: I have the honour to refer to the Exchange of Notes of June 30, 1952,[2] between the Canadian Ambassador in Washington and the Acting Secretary of State of the United States in which it was agreed that the Canadian Government would, when all arrangements had been made to ensure the completion of the power phase of the St. Lawrence Project, construct locks and canals on the Canadian side of the International Boundary to provide for uninterrupted 27-foot navigation between Lake Erie and the Port of Montreal.

With the cooperation of the Government of the United States, arrangements were made to ensure the completion of the power phase of the Project by the Power Authority of the State of New York and the Hydro-Electric Power Commission of Ontario. In the meantime, the Congress of the United States enacted and the President approved on May 13, 1954, Public Law 358[3] which created the Saint Lawrence Seaway Development Corporation and authorized and directed it to construct 27-foot navigation works on the United States side of the international section of the St. Lawrence River.

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[1] Department of State *Bulletin*, Aug. 30, 1954, pp. 300–301.

[2] *Supra*, doc. 34.

[3] *Supra*.

At the request of the United States Government, representatives of our two governments held meetings in July and August of this year[1] to discuss the need for modification of the Notes exchanged on June 30, 1952 in the light of Public Law 358. Although the Canadian Government is ready and willing to complete the works necessary for 27-foot navigation in the St. Lawrence Seaway on Canadian territory, it understands the desire of the United States to participate in the Seaway Project by constructing certain navigation works on United States territory. Accordingly the Canadian Government is prepared to modify the arrangements set forth in the Notes of June 30, 1952, to the extent that the Canadian Government will be relieved of the obligation towards the United States Government to provide forthwith the navigation works in the general vicinity of Barnhart Island on Canadian territory and in the Thousand Islands section.

(a) The Canadian Government wishes to state, however, that it will construct forthwith a canal and lock at Iroquois and that in addition it intends, if and when it considers that parallel facilities are required to accommodate existing or potential traffic, to complete 27-foot navigation works on the Canadian side of the International Rapids Section.

(b) Before undertaking these latter works in the general vicinity of Barnhart Island, the Canadian Government agrees to consult the United States Government and understands that, should the United States Government intend to build on United States territory in the International Rapids Section navigation works in addition to those provided for in Public Law 358, it would similarly consult the Canadian Government.

The Canadian Government reserves the right to decide whether and in what manner it will continue 14-foot navigation works through the International Rapids Section but agrees to consult the United States Government on the question of levying tolls in connection with such works.

(a) It is recognized that it is of great importance to Canada and the United States that the St. Lawrence Seaway be used to the maximum extent required by the needs of commerce. It is understood therefore that both Governments will use their best endeavours to avoid placing unreasonable restrictions on the transit of passengers, shipping or trade in the international section of the St. Lawrence Seaway.

(b) It is further agreed that each Government will consult the other before it enacts any new law or promulgates any new regulation, applicable in the respective national parts of the international section of the St. Lawrence River, which might affect Canadian or United States shipping, or shipping of third-country registry proceeding to or from Canada or the United States respectively.

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[1] These discussions were held in Ottawa, July 5 and 6 and Aug. 12 and 13, 1954. The U. S. representatives were Robert B. Anderson, Deputy Secretary of Defense; Livingston T. Merchant, Assistant Secretary of State; Lewis G. Castle, Administrator of the St. Lawrence Seaway Development Corporation; Wilber M. Brucker, General Counsel of the Department of Defense; Jerome K. Kuykendall, Chairman of the Federal Power Commission; and J. Lee Rankin, Assistant Attorney General. The representatives of Canada were Lester B. Pearson, Secretary of State for External Affairs; C. D. Howe, Minister of Trade and Commerce; G. C. Marler, Minister of Transport; and Lionel Chevrier, President of the St. Lawrence Seaway Authority.

(c) Similarly, with respect to any laws or regulations now in force in either country which affect the shipping interests of the other country in the international section of the St. Lawrence River, the Government affected may request consultation concerning such laws or regulations and the other Government shall accede to requests for consultation.

(d) The foregoing undertakings are in addition to the treaty obligations now in force between Canada and the United States affecting shipping in the St. Lawrence River and canals, particularly Article I of the Boundary Waters Treaty of 1909.[1]

I should be glad to receive your confirmation that the United States Government agrees with the modification of the Notes of June 30, 1952, proposed in paragraph 3 and with the reciprocal undertakings set forth in paragraphs 4 (b) and 6 of this Note.

The Canadian Government looks forward to the fruitful development of this great Seaway Project in constructive and harmonious cooperation with the United States and is confident that this joint enterprise will add to the strength and prosperity of our two countries.

Accept, Sir, the renewed assurance of my highest consideration.

L. B. PEARSON
Secretary of State for
External Affairs

DON C. BLISS, Esquire
Chargé d'Affaires ad interim,
United States Embassy,
Ottawa.

UNITED STATES REPLY

UNITED STATES EMBASSY
Note No. 38 *Ottawa, August 17, 1954*

SIR: I have the honor to acknowledge the receipt of your Note No. X–214 of August 17, 1954 in which you inform me that the Canadian Government agrees to certain modifications in the arrangements set forth in the Notes of our Governments of June 30, 1952, in the light of the changed circumstances with respect to the St. Lawrence Seaway Project brought about by the enactment by the Congress of the United States of Public Law 358, approved by the President on May 13, 1954.

The United States Government has called the attention of the Canadian Government to the provisions of Public Law 358 authorizing and directing the St. Lawrence Seaway Development Corporation to construct certain canals and locks on the United States side of the International Rapids Section of the St. Lawrence River as its part of the St. Lawrence Seaway Project. As the Canadian Government has been informed, it is the intention of the United States Government to participate in the St. Lawrence Seaway Project by constructing these navigational facilities.

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[1] Treaty Series 548; 36 Stat. 2448.

The United States Government agrees with the requirements of consultation between the two Governments set forth in paragraphs 4 (b) and 6 and agrees to relieve Canada of its obligation of June 30, 1952 as referred to in paragraph 3 of your Note No. X–214 of August 17, 1954.

My Government notes the declarations contained in your Note as to the intentions of the Canadian Government with respect to other matters relating to the St. Lawrence Seaway Project.

The United States Government wholeheartedly shares the view expressed by the Government of Canada concerning the benefits to be anticipated from this joint enterprise and welcomes this new opportunity for constructive and harmonious cooperation between our two countries.

Accept, Sir, the renewed assurances of my highest consideration.

DON C. BLISS

The Honorable
LESTER B. PEARSON,
Secretary of State for External Affairs,
Ottawa.

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40. COOPERATIVE ARRANGEMENTS FOR DEFENSE—THE "PINETREE" LINE: Joint Statement by the United States and Canadian Governments, April 8, 1954 [1]

Because of the possibility of aggressive air attacks against North America, the Canadian and United States Governments after the Second World War continued the cooperative arrangements for the defense of North America which had been brought into effect during the war. Since that time, there have been established in both countries fully manned radar screens for the detection of a potential enemy, and installations for interceptor aircraft and antiaircraft weapons. At all stages, planning has been carried on between the two countries on a joint basis, and consultations and cooperation at all levels have been constant and completely satisfactory.

For some time now, the Canadian and United States Governments have been appraising the air defense system to define the steps required to strengthen our defenses in the light of recent advances in the destructive capabilities of atomic weapons against targets in our two countries.

For the past 4 years, work has been going on at high priority on the construction of a large and costly radar chain[1] which is required not only to detect enemy bombers but also to control fighter aircraft engaged in the task of interception. This radar chain is known as the Pinetree Chain.

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[1] Department of State *Bulletin,* Apr. 26, 1954, pp. 639–640.

Long before the Pinetree project was approaching completion, the military planners of the two countries were engaged in an intensive study of what further steps might be desirable and practicable. In October 1953, a team of military and scientific advisers representing both countries recommended that additional early warning should be provided by the establishment of a further radar system generally to the north of the settled territory in Canada. The report of this team was considered by the Chiefs of Staff of each country later that same month. At a meeting in Washington in November 1953, the Canadian representatives informed the United States authorities that the Canadian Government was prepared to proceed immediately with the necessary surveys and siting for the proposed new early warning radar system. This work is already well advanced.

There are many difficult problems to be solved in establishing this additional early warning system in the Canadian North. The system will extend over thousands of miles and its survey will involve the examination of a great number of possible sites. Much of the ground is inaccessible except by tractor train and helicopter. In many areas extreme temperatures are confronted for several months of the year. Many technical problems, including the interference of the Auroral Belt with electronic devices, have had to be overcome. In overcoming the various technical problems involved the United States Air Force is working closely with the Royal Canadian Air Force.

It is obviously just as important to have early warning of aircraft approaching target areas in North America from over the sea as from over Northern Canada. For this reason, the United States Government is extending the early warning barrier across the northeastern and northwestern seaward approaches to North America. The Alaska radar system is coordinated with those in Canada and the continental United States, and the development of airborne radar is well advanced.

In addition to these measures of common concern, both countries are working continuously to improve the air defense installations in the vicinity of the major target areas. Here too, cooperation between the United States and Canadian air defense commanders is close, and unidentified aircraft are investigated by the most immediately available interceptor force, whether Canadian or American.

The defense of North America is part of the defense of the North Atlantic Region to which both Canada and the United States are pledged as signatories of the North Atlantic Treaty. Thus, the cooperative arrangements for the defense of this continent and for the participation of Canadian and United States Forces in the defense of Europe are simply two sides of the same coin, two parts of a world-wide objective, to preserve peace and to defend freedom.

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[1] See agreement relating to the extension and coordination of the continental radar defense system, Aug. 1, 1951; TIAS 3049 (5 UST 1721).

41. FURTHER COOPERATION FOR DEFENSE—THE "MID-CANADA" AND "DEW" LINES: Joint Statement by the United States and Canadian Governments, September 27, 1954 [1]

On April 8, 1954, the Governments of Canada and the United States issued a joint announcement, which, after referring to the construction of the Pinetree radar chain, announced plans for the establishment of a further radar system "generally to the north of the settled territory in Canada." [2] The Canadian Government subsequently decided that it would be appropriate, as a part of its contribution to the common defense requirements of the two countries, for Canada to undertake responsibility for financing, constructing, and operating this new system, which is generally referred to as the "Mid-Canada Line."

During the time that plans for the Mid-Canada Line have been under development, studies have also been going on to determine the feasibility of providing even earlier warning of the approach of hostile aircraft.

As a result of these studies, the Canadian and United States Governments have agreed in principle that there is a need for the establishment of a distant early warning line across the far northern part of North America and have directed that detailed planning for such a line should be initiated at once. The basis of participation by the two countries in the construction and operation of the line, and the division of costs, will be determined after the detailed plans have been considered and agreed.

In developing the complete system for warning of the approach of hostile aircraft and for the control of interceptor forces, the two Governments have followed a policy of building outward from the likely target areas. Thus the first step, which has now been largely completed, was the construction of the main control and warning radar installations in the continental United States and the populated part of Canada. The second step, which is now under way, is the provision of the Mid-Canada Line. A third measure, the need for which has now been agreed upon between the two Governments, will be the provision of a distant early warning line across the most northerly practicable part of North America. Portions of the complete warning and control system in Canada will be extended to seaward on both flanks of the continent by the United States.[3]

The establishment of these North American defense installations is a costly and difficult task, which is being undertaken because our security requires it and is being accomplished successfully because of the readiness of Canadians and Americans to work together in a common cause.

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[1] Department of State *Bulletin*, Oct. 11, 1954, p. 539; also see *ibid.*, Nov. 29, 1954, p. 813.

[2] *Supra.*

[3] Arrangements concerning the Distant Early Warning (DEW) Line were further elaborated in an exchange of notes between the Canadian Embassy in Washington and the Department of State on May 5, 1955 (TIAS 3218; 6 UST 763). The United States assumed the responsibility for the construction of the DEW Line, and the Canadian Government announced its intention to participate in the project.

Status of the Antarctic Region

42. MEMORANDUM OF THE DEPARTMENT OF STATE, MARCH 30, 1956 [1]

1) The Governments of the United Kingdom, Argentina, Chile, France, Norway, New Zealand and Australia have already advanced formal claims to portions of the Antarctic. In fact, official claims advanced by other countries cover all of Antarctica except for that area lying between 90°E and 150°E. Those of the United Kingdom, Argentina and Chile overlap and have been the source of considerable controversy among those countries since the end of World War II.

2) The advancing of formal claims at some point is usually considered a prerequisite to establishing sovereignty over *terra nullia*. However, the significance of such a formal act with respect to virtually unoccupied and uninhabitable territory such as the Antarctic is not clear. It is also true that the customary rule that claims depend to a great extent on effective occupation may not apply in the same measure as in more temperate zones.

3) Claims alone do not convey title to territory, particularly in an area where another country may hold equal or superior rights. It will thus be seen that protection of United States interests involves more than the assertion of claims.

4) Over a long period of time the Antarctic has been, as you know, the scene of extensive American exploration. At the present time United States participation in the International Geophysical Year encompasses an extensive program of American exploration and scientific study. The United States Government has consistently and on all appropriate occasions reserved American rights derived from official and unofficial activity of this kind and we have made clear that we do not recognize any of the claims of other Governments.

5) As yet knowledge of the Antarctic Continent is insufficient to permit an informal decision as to what value United States sovereignty over parts of the continent would have. Traditionally the United States does not take lightly the obligation to protect areas under its sovereignty. Until more is known it may be questioned whether it is advisable to advance claims which would conflict with those of other friendly governments and which would involve very large ap-

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[1] Memorandum prepared in answer to public inquiries. Not previously printed.

propriations to establish and maintain. It is hoped, however, that information collected during the International Geophysical Year will perhaps assist in deciding on the present and potential value of various parts of the continent.

6) In view of all the considerations discussed above it is not considered advisable for the United States to advance an official claim at the present time. The various Government agencies concerned with the subject will, however, continue to take steps to insure that United States activities in the area support American interests. The United States will continue its past policy of reserving American rights and does not plan to recognize the claims of other Governments. It is believed that these courses of action will protect the national interest. We shall, however, follow developments carefully and take or recommend such steps, including the advancing of official claims, as are required to protect the national interest.

Part IX

WESTERN EUROPE

A. GENERAL

Basic United States Policy

1. ADDRESS BY THE SECRETARY OF STATE, MAY 31, 1950[1]

I am greatly honored by this opportunity to report to you and to the people of the United States on the recent meetings in Paris and London.[2] I should like to begin by telling you of the strength which was given me in this series of meetings I am about to describe by the reports which kept coming into Paris and London of the successive steps taken by the Congress in the enactment of the Foreign Economic Assistance Act of 1950.[3] The continuation by the Congress of the European Recovery Program for the third year, the inauguration of the Point 4 Program,[4] and the approval of the other provisions of this great measure are fundamental to the program of action on which I wish to report.

I would not wish you to expect a report of events which could be described as sensational. The significance of the discussions with Mr. Bevin and Mr. Schuman and of the meeting of the North Atlantic Council lies in the fact that they are working business meetings which are becoming a regular institution. In this aspect of the meetings, we see the outward sign of a comprehension which ran through every discussion and every resolution—that the North Atlantic community is emerging as a political reality of the greatest importance.

This impression and one other should be underlined at the outset of this report. The other is a new vigor in European life and European leadership. Mr. Schuman's coal and steel proposals,[1] and the reception accorded them particularly in Germany, are one sign of this. The imminent solution of the problems surrounding the European Payments Union [2] is another.

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[1] Delivered to the Members of the Senate and House of Representatives; Department of State *Bulletin*, June 12, 1950, pp. 931–936.

[2] The only communication released in connection with Secretary Acheson's meeting in Paris with M. Schuman was the former's statement of May 8, 1950 (*infra*, p. 2365); for the two communiqués on the London meeting, see *infra*, docs. 5 and 6. For the NAC communiqué of May 19, see *infra*, pp. 1604–1606.

[3] Act of June 5, 1950; 64 Stat. 198.

[4] See *infra*, pp. 3047–3054.

These two developments—the growing acceptance of the North Atlantic community as a community having common interests and facing common dangers and the renewed vitality and confidence in Europe—give warrant in saying that the meetings mark the beginning of something new, something which is full of hope and the promise of strength.

The realization of this hope and this promise will depend in each country upon those in executive authority, upon the legislative bodies, and upon the peoples whom they serve.

The fundamental purpose of these meetings was the same as the constant purpose of our foreign policy. That purpose is the preservation of peace; not the fragile temporary peace which comes from appeasement; not the hopeless peace of submission; but the peace which free peoples, sure of the rightness of their purpose, win and maintain by developing their economic and military strength through the processes of voluntary and continuing cooperation. It is from this strength that our confidence derives, from this cooperation that peace becomes secure.

We have long hoped that all nations would cooperate for peace in the United Nations. The attitude of the Soviet Union has delayed the fulfillment of that hope, but it has not caused us, on our part, to slacken our efforts. It has made it necessary for us, in harmony with the Charter, to use means supplementary but not rival to the United Nations. The North Atlantic Treaty, like the Rio pact, is one of these means.

THE NORTH ATLANTIC COMMUNITY

The meeting of the North Atlantic Council [3] naturally dealt with only a part of the world problem. But that part is an important one. The North Atlantic community holds the world's greatest concentration of industrial and technical skills. It is the ancient home of freedom and the rights of man. These resources must be drawn on by the entire free world in order that it may continue to make steady progress in improving the welfare of its peoples.

The continued strengthening of the North Atlantic community is thus not a selfish end in itself. The effort we devote to it will benefit free peoples everywhere, and, in our talks, we explored ways in which we can help to advance the security and welfare of many areas outside the Atlantic community.

All of the meetings began with an analysis of the present world situation. In each case, the analysis was the same. Since it profoundly affected all our conclusions, it should be reported first.

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[1] Proposals of May 9, 1950; Department of State *Bulletin*, June 12, 1950, pp. 936–937.

[2] See agreement of Sept. 19, 1950; *supra*, pp. 1012–1037.

[3] See communiqué of May 19, 1950; *infra*, pp. 1604–1606.

As we saw it, in the years since the war, the 18 Western European countries had made great economic progress. This had played an essential part in strengthening their social and political structures and preventing the subversion of their free institutions. While this had been going forward, the Soviet Union had been devoting so much of its resources to military purposes that a dangerous situation was developing.

If the free nations did not look to their defenses, and do so speedily, the maintenance of peace and security might not be possible. It was also plain that provision of the necessary defense would require a very large economic and financial effort. Therefore, the continued development of production and productivity was essential to underpin the defense effort and to maintain and extend the hard-won social and political gains.

In the face of these equal and equally compelling needs for increased defense and strengthened economies, the free nations have come, therefore, to another time of decision. The world does not stand still. It is up to us whether we go forward or fall back, and falling back, risk not only all the progress we have made but total failure.

Most of us had hoped that with the completion of the reconstruction phase, each nation would be free to work out its own problems within the framework of the security which would be assured by the United Nations. We now see that to go forward we must pursue the course of cooperative association—including partnership in the North American and Western European community of nations, for none of the complex and baffling problems which lie ahead will yield to purely national action.

We recognized that the task before the Atlantic community is to build a common defense, to create a successfully functioning economic system, and to achieve unity of action on the major problems of foreign relations. Our meetings in Paris and London demonstrated a new and basic understanding that success in this task will require close, cohesive, and sustained efforts on a partnership basis in all these fields.

TALKS WITH BRITISH AND FRENCH FOREIGN MINISTERS

My talks with Mr. Bevin and Mr. Schuman ranged over a multitude of problems in all parts of the world and reflected throughout the deep appreciation of the need for common and mutually supporting policies.[1]

In Europe, it has long been clear that no real progress will be possible until France and Germany work out their age-old differences. During the conferences, Mr. Schuman announced the proposal of the French Government for joint utilization of the coal and steel resources of France and Germany,[2] proposals which are open to all other European countries willing to participate on an equal basis. This proposal is a momentous and courageous act, made on the initiative of the French Government. The plan is still to be perfected, and its details must be developed with great care so that it will help to strengthen and expand the European economy. If it is developed for that purpose, it will open the door to a new era in Europe.

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[1] See communiqués of May 13 and 18, 1950; *infra*, docs. 5 and 6.

[2] Proposals of May 9, 1950; Department of State *Bulletin*, June 12, 1950, pp. 936–937.

Germany's reentrance into the free Western community, which is the established policy of the three Governments in occupation of Western Germany, should be greatly helped by the new climate created by the French proposal and by other actions taken at the meetings.

Germany has been a member for some time of the Organization for European Economic Cooperation [1]—commonly referred to as the OEEC—and we are hopeful that she will soon join the Council of Europe.[2]

A declaration of our common policy was issued by the three Ministers and promptly welcomed by Dr. Adenauer, the Chancellor of the German Federal Republic, as another long step forward on this road.[3]

We agreed as well upon proposals under which the inhabitants of the Soviet zone of occupation could rejoin their fellow countrymen in a democratic and united Germany, and these have been forwarded by the three Western High Commissioners to the Soviet representatives in Germany with an offer to negotiate on the framing of an electoral law to allow free elections in all Germany.[4]

Our statement expressing our determination to maintain our rights in Berlin, together with our actions in that city in recent months, may have had some influence on the relative quiet which prevailed in Berlin on Sunday.[5]

A declaration was also made on the repatriation from the Soviet Union of the many German prisoners of war still detained there.[6]

All in all, the results of our discussions on Germany were most encouraging and, we believe, laid the basis for successful work by the joint group established to consider ways of easing the difficulties for ourselves and the German people resulting from the continuance of the technical state of war.

With respect to Austria, the three Ministers announced that our Governments will soon appoint civilian high commissioners.[7] This is a further step in restoring Austria to a peacetime status and is one which can be taken now despite the continued and callous blocking of the peace treaty by the Soviet Union.

In the same appreciation of the need for common action, we found that the British Government was ready to move ahead with the European Payments Union in an attempt to reconcile the requirements of their own position with the need for substantial progress in the liberalization of trade and payments among the European countries.

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[1] See convention of Apr. 16, 1948; *supra*, pp. 992–1000.

[2] See statute of May 5, 1949, as amended: *supra*, pp. 1001–1012.

[3] Declaration of May 14, 1950; *infra*, pp. 1709–1711.

[4] See letter of May 25, 1950, from Maj. Gen. Maxwell D. Taylor (on behalf of the U. S. High Commissioner) to Gen. V. I. Chuikov, Soviet Commandant for Berlin; *infra*, pp. 1780–1781.

[5] Statement of May 13, 1950; *infra*, p. 1737.

[6] Declaration of May 13, 1950; *infra*, p. 2060.

[7] Declaration of May 19, 1950; *infra*, p. 1822.

U. S. CONCERN IN EUROPEAN AFFAIRS

During these meetings, the continuing interest of the United States in European affairs was expressed to the other governments and also our genuine desire to work on the economic problems ahead in cooperation with Canada and the Western European countries. There has been some concern in Western Europe that, despite the North Atlantic Treaty, the concern of this country with European affairs would slacken after 1952.

Various projects related to these problems have been going forward on both sides of the Atlantic. In this country, as you know, the President has appointed Mr. Gordon Gray to study what adjustments this country needs to make if it is to achieve a balance in its international accounts at high and stable levels of trade.[1] The Canadian Government has been actively considering these problems from its point of view, and the OEEC countries have been steadily working on this same range of problems in their organization.

After discussions with Mr. Pearson of Canada and Mr. Stikker, the Chairman of the OEEC, it was thought that a new working relationship between Canada, the United States, and the OEEC would be a desirable means for working out solutions of common economic problems.[2] We are hopeful that the OEEC will issue an invitation to establish this relationship.

We can no longer afford the luxury of regarding these problems as purely national in character. The additional economic strength which will flow from a cooperative approach is required to meet the cost of defense, to maintain and improve standards of living, and to provide essential assistance to other free nations of the world in their development. A new attitude is required of each of us, for we must work out solutions to these problems which will strengthen the community as a whole and advance the welfare of us all.

Success in this venture will be of the greatest practical significance, both for the economic benefits it can bring to every one of us and because the security of free institutions is directly related to their economic health and vitality.

There were many other evidences of the necessity of avoiding purely unilateral treatment of problems which affect more than one state even though one may have a primary concern in their solution.

MEETING SECURITY PROBLEMS OF ASIA AND NEAR EAST

In Paris, there was a most satisfactory discussion with Mr. Schuman on the situation in Indochina.[3] Mr. Schuman recognized that the problem of meeting the threat to the security of Vietnam,

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[1] See Mr. Gray's report of Nov. 10, 1950; *Report to the President on Foreign Economic Policies* (Washington, 1950).

[2] See *infra*, doc. 6.

[3] See *infra*, p. 2365.

Cambodia, and Laos is primarily the responsibility of France and the Governments and peoples of Indochina. On our part, I was able to inform Mr. Schuman of the assistance which the United States could provide toward the achievement of security and the development of a healthy nationalism in these associated states of Indochina.

In London, the initiative of the Commonwealth conference at Sydney for a program of economic development in South and Southeast Asia[1] was discussed, and Mr. Bevin was informed that this Government will attempt to coordinate its efforts in that area with the efforts of the Commonwealth, in order that our actions will be mutually supporting.

By strengthening the economy and the defenses of the Atlantic community, we believe that we are making a direct contribution to the security and welfare of all free nations.

Mr. Bevin and I reaffirmed the concern of our Governments with the security and welfare of Greece, Turkey, and Iran.

Together with Mr. Schuman we agreed on a firm policy toward arms shipments and security for the Arab States and Israel which should greatly assist in promoting peace and stability in that important area.[2]

In South and Southeast Asia, a great development has been taking place; never before in history have so many peoples acquired national independence in so short a period of time. The United States and other members of the Atlantic community were glad to see this happen; we worked for it, we assisted it, and, in our meetings, we recognized our large responsibility for helping it succeed. The great need of these newly independent peoples is for a period of peace and quiet in which they can concentrate on the difficult problems of establishing their political and economic institutions. The success of our efforts in the Atlantic community will greatly assist in giving them this opportunity.

Time does not permit me to discuss in detail any of these matters or the other issues we considered. I do wish to emphasize the basic understanding on objectives, of the dangers and threats which confront us, and of the requirements for action, and the businesslike atmosphere of the meetings. These may not at first glance appear dramatic, but this is, in my opinion, the most dramatic fact that could be reported. It is news of a quiet, practical, and immense significance.

DEFENDING NORTH ATLANTIC AREA

Finally, there is the problem of defending the North Atlantic area, which was the subject of the meeting of the North Atlantic Treaty Council. The 12 member countries had previously recognized the need for a common defense against a common threat. The North Atlantic Treaty had its origins in this realization.

First of all, it should be made plain that there was nothing which any of the 12 Foreign Ministers had to say which indicated that there is any immediate threat of war.

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[1] See *infra*, pp. 2338–2344.

[2] Statement of May 25, 1950; *infra*, p. 2237.

It was our unanimous view that this is not the problem. The problem is to meet a threat which, in view of the known program of the Kremlin, will exist unless we act now to prepare our defenses against aggression.

It was made unmistakably clear in all our discussions that our common purpose in preparing our common defenses is a peaceful one. We hope never to need them. But so long as any dictatorship builds powerful armed forces, so long must democracies, if they are to be left in peace, evidence their determination to defend themselves by maintaining adequate forces in being and an adequate state of preparedness. Mr. Lange, the Foreign Minister of Norway, summed up this thought when he said: "Peace will never be secure in a world where democracies are weak and dictatorships alone are strong."

The work of the North Atlantic Treaty Organization in the first year of its existence has shown that the task of defense is so large, its cost in labor and material resources so high, and the problem of security so indivisible that only a combined effort will be adequate.

The work of this meeting of the Council, which grew out of its review and full approval of the work of the Defense Ministers and the Finance Ministers and of their progress to date in planning a combined effort, was twofold. It was necessary, first, to establish the principles which will guide our common defense effort. Secondly, the Council concluded that the requirements of the combined effort were such that additional control machinery was needed to enable the Council to do its job efficiently and effectively.[1]

COUNCIL TASKS TO BE UNDERTAKEN BY DEPUTIES

The job is a full-time one and requires on a full-time basis the services of the best men that the members can assign to it. The Council therefore decided that each Government should appoint a deputy to its representative on the Council in order that the Council can function continuously in giving direction to the work of the Organization. The deputies are to select from among themselves an outstanding man as Permanent Chairman, who, in addition to presiding at meetings of the deputies, will be responsible for directing the Council's work.

The Council decided that the following five tasks should be undertaken by the deputies:

(1) to coordinate the various planning activities related to defense;

(2) to recommend the measures necessary to carry out these plans;

(3) to consider common political problems related to the objectives of the Treaty;

(4) to promote and coordinate public information on Treaty questions;

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[1] See the Council's resolution of May 19, 1950 (Department of State *Bulletin*, May 29, 1950, p. 831); also *infra*, pp. 1604–1606.

(5) to consider the development of political and economic cooperation as contemplated in article 2 of the Treaty.

This list of tasks is worth citing in full in order to emphasize the importance of the work which is to be undertaken by the deputies and the need of securing from each country a man of the highest qualifications who will have the complete confidence of his own and other Governments. The ability of the Organization to get on with its job will very largely depend on the calibre of the men who are appointed as deputies. It will equally depend on the support they receive from all branches of their Governments and their peoples.

PRINCIPLE OF BALANCED COLLECTIVE FORCES

Perhaps, the most important action of the Council was the recommendation of a principle to governments to guide the development of the common defense. This principle is the creation of balanced collective forces, rather than the duplication by each nation in a large or small way of what every other nation was doing. After a careful review of the plans which have been prepared, it became evident to each of us that the principle of balanced collective forces was the only principle which could reconcile the resources available with the demands upon them. It is the only way in which forces can be developed to meet successfully any initial attack and to carry through to a successful conclusion any war that is forced upon us. For the task of providing an adequate common defense and adequate standards of living is so large that waste and unnecessary duplication will prevent its accomplishment.

Also, this principle, more than any other, reconciled the security needs of each member country with the security needs of the community as a whole.

This principle of balanced collective forces is of great and perhaps revolutionary significance. It has its legislative origin, so far as this Government is concerned, in the Mutual Defense Assistance Act of 1949 [1] which stipulated that the assistance to be granted by the United States to other North Atlantic Treaty countries should be used to promote "the integrated defense of the North Atlantic area." It demonstrates that each country will rely on every other member of the community and that the community will look to each country to contribute what it is best able to contribute to the common defense in accordance with a common plan. It demonstrates that each country recognizes that its own security is no better than the security of the community as a whole. It will give tangible proof to an aggressor that he must face the combined resources of the community, that there will not be opportunities to pick off one member at a time.

The United States, as the most populous member of the North Atlantic community and the one with the largest and most productive plant, has necessarily a leading role in building balanced collective forces. If we faithfully observe this principle and direct our energies to the creation of such forces, we will find a corresponding response from the other Treaty members.

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[1] Act of Oct. 6, 1949; *A Decade of American Foreign Policy*, pp. 1356–1364.

The President has authorized me to say that he supports Secretary Johnson[1] and me in our view that we must make this principle work, for we can see no other way to accomplish the job of defense and at the same time to get ahead with the constructive task of building a successfully functioning economy in the free world.

The job cannot be done unless we do our full part which includes the provision of mutual defense assistance. If we and our Atlantic community partners each take our respective share of the common burden, the goal can be attained. I am confining my present remarks on this vital point to this reference since, within the week, I shall appear before the appropriate Congressional committees in support of the Mutual Defense Assistance Program when I shall discuss this problem in full.[2]

If we put this principle into practice, it follows that the members of the Atlantic community will have to intensify their practice of developing common policies on the major problems of common concern in the field of foreign affairs and that they must also develop even closer and more cohesive economic policies.

It is in these corollaries of the principle of balanced collective forces that its implications become clear. It is because of these implications, as well as for the progress on other matters, that this conference marks the beginning of greater unity of thought and action among the free countries of the Atlantic community.

At the conclusion of our Council meeting, we made a statement of our principles, our determination, and our faith. That statement has been published,[3] but I wish in closing to cite a part of it because I believe it expresses well the purpose that guides us: "They are determined that freedom, which is the common basis of their institutions, shall be defended against every threat of aggression or subversion, direct or indirect. Freedom means the independence of nations, the respect for spiritual values, and the dignity of man. Only a free society can guarantee the individual the benefits of economic and social betterment.

. . . To the immense resources of the free world, and its industrial and scientific development, the peoples of the North Atlantic community bring the spiritual strength that comes from freedom."

These are the main outlines of what was accomplished in the meetings in Paris and London.

Most of what was done was a beginning of still further progress. Beginnings, of course, are very important. It is an inexperienced and naive traveler who does not make sure that he is on the right road at the beginning. The Atlantic community is on the right road; we have gone some distance down it, and we know where we are going. We have the machinery to carry us much farther. We have learned much regarding the cooperation necessary to make the machinery work.

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[1] Louis A. Johnson, Secretary of Defense.

[2] See Secretary Acheson's statement of June 2, 1950, before the Senate Armed Services and Foreign Relations Committees; Department of State *Bulletin*, June 12, 1950, pp. 940-944.

[3] *Infra*, pp. 1604-1606.

How far and how fast we go depends on each country, but perhaps especially on the United States. These meetings will be just as important as the Government and the people of America choose to make them. If we now support on a sustained basis the measures necessary to make this cooperative venture a success, we will not find wanting a similar response from our friends and allies. Together we shall make a major contribution to the United Nations whose Charter remains our basic guide.

This road is the road to peace. The concept of the free community is one which can bring peace and prosperity to the world. Individually, no one of these countries, including the United States, has the strength, even if it had the desire, to determine the course of the future. Together, this community has the human and material resources, the skills, the initiative, the tradition and the devotion of free men, and a dynamic idea which can give us confidence that the future belongs to freedom. In our unity, there is strength. And, in our strength, is the foundation of peace.

2. ADDRESS BY THE SECRETARY OF STATE, FEBRUARY 12, 1953 [1]

I returned this week from a trip to Europe in company with Mr. Stassen, the Director of our Mutual Security Agency.

We have reported to the President; I have met, and shall meet further, with congressional leaders. Now I wish to report to you.

You may wonder why, with so much to do at home, we went so quickly abroad. The reason was the tremendous importance to the United States of real unity in Europe and the fact that it seemed that some of our European friends might be changing their minds about moving to this goal.

The problem in simple terms is this:

Europe is made up of people who possess an essential unity. They have given a clear and special meaning to the concept of Western civilization. Yet Europe has remained politically divided. This has led to recurrent wars, which have involved us. It has so weakened the Western European countries that today no one of them could offer strong resistance to the Red armies.

This situation both distresses and endangers us. Europe is the cradle of our civilization, and its industrial power could cruelly hurt us if it were controlled by our enemies.

It has been clear for some time that the biggest single postwar task would be to end the disunity in Europe which makes for weakness and war.

As the Second World War blazed up, I wrote "Continental Europe has been the world's greatest fire hazard. . . . The whole structure is now consumed in flames. . . . when the time comes to rebuild, we should not reproduce a demonstrated firetrap." [1]

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[1] Delivered to the Nation over radio and television networks; Department of State *Bulletin*, Feb. 23, 1953, pp. 287–289.

Today we and the free peoples of Europe are all face to face with that very problem. Shall a demonstrated fire-trap be rebuilt? Or cannot the wit of man devise something better?

When the first program of interim aid to Europe was before the Senate in 1947, I urged, before the Foreign Relations Committee, that in granting European aid "the basic idea should be, not the rebuilding of the prewar Europe, but the building of a new Europe, which, more unified, will be a better Europe." [2] That point of view was emphatically adopted by Congress. It was written into the policy declaration of the Marshall Plan act [3] and into our military assistance acts,[4] and that concept underlay the implementation of the North Atlantic Treaty Organization and the stationing of United States troops in Europe. None of these measures was looked upon as in itself adequate to defend Europe. But these steps, together with the creation of a unified continental Europe, would produce a strength which could deter aggression.

These are the ideas that enlightened European leaders themselves put forth. We have not been trying to impress an American scheme on Europe but to support the plans of the European leaders themselves.

WHAT EUROPE HAS ALREADY ACCOMPLISHED

They have already done much. As an outstanding example, they have created, under what is called the Schuman Plan, a single political authority to deal with the coal and iron resources of Germany, France, and the adjacent states.[5] Last Sunday Mr. Stassen and I saw that authority first go into practical operation at its capital at Luxembourg.[6]

Our European friends also tackled the vital problem of military unity. Last May the six continental countries of France, Germany, Italy, Belgium, the Netherlands, and Luxembourg signed a treaty to create a European Defense Community.[7] Under that treaty each of the six countries would give up having a separate national army on the Continent and would join in building there a single European army. It was contemplated that the treaties could be promptly ratified, so that the plan could be made operative in 6 months.

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[1] See Mr. Dulles' "Peace Without Platitudes" (*Fortune*, January 1942, p. 87). The complete text of the paragraph was as follows: "Continental Europe has been the world's greatest fire hazard. This has long been recognized, but it has seemed impractical to do anything about it. Now the whole structure is consumed in flames. We condemn those who started and spread the fire. But this does not mean that, when the time comes to rebuild, we should reproduce a demonstrated firetrap."

[2] Statement of Nov. 14, 1947; *Interim Aid for Europe: Hearings Before the Committee on Foreign Relations, Eightieth Congress, First Session, on Interim Aid for Europe*, p. 241.

[3] Act of Apr. 3, 1948; *A Decade of American Foreign Policy*, pp. 1299–1321.

[4] Acts of Oct. 6, 1949 (*ibid.*, pp. 1356–1364); July 26, 1950 (64 Stat. 373); Oct. 10, 1951 (65 Stat. 373); and June 20, 1952 (66 Stat. 141). See *infra*, pp. 3039–3042 and 3059–3086.

[5] Treaty of Apr. 18, 1951; *supra*, pp. 1039–1078.

[6] i. e., Feb. 8, 1953.

[7] Treaty of May 27, 1952; *supra*, pp. 1107–1150.

We in the United States were delighted that our European friends had taken this bold step toward making Europe strong and vigorous in its own right. However, the 6 months from last May went by without any effective steps to ratify, and the 6 months has now been prolonged to 9 months. This has been somewhat disconcerting to us, because the plans for our own security are based on the assumption that the North Atlantic Treaty Organization, which does not include Germany, would be bolstered by the European Defense Community, which would draw on German military strength to create a solid continental European military establishment.

U.S. Contributions

During the past 7 years we have contributed about 30 billion dollars to Europe. We have tens of thousands of our armed forces in Europe. We have made the effort because the security of Europe vitally affects our own security. But our effort will not permanently serve Europe or ourselves or humanity unless it fits into a constructive program for European unity. Nothing that the United States can do will ever be enough to make Europe safe if it is divided into rival national camps.

President Eisenhower himself said recently that he was impressed with the "feebleness" of alternatives to the European Defense Community.

A Will To Proceed

It was to discuss all of these problems that President Eisenhower asked Mr. Stassen and me to go to Europe. We went to seven European capitals—first Rome, then Paris, then London, then Bonn, then The Hague, then Brussels, and then Luxembourg. Our conclusion was that the project for a European Defense Community was not dead but only sleeping. We did not get any concrete promises or pledges from our European friends, and we did not give any. We did come back with the feeling that there is a good chance that the European Defense Community will be brought into being. There are plenty of hurdles to be overcome. But we believe that there is a will to proceed. We hope that in the coming weeks this determination will be translated into concrete evidence that real progress is being made. Without that, future planning will be difficult. Candor requires us to say this.

NATO is now a far-flung organization. It includes not only countries in this hemisphere but in the North Atlantic and in the Mediterranean. But the core of this far-flung structure is the six continental countries of Western Europe, which have made the European Defense Community treaty. Unless their military and economic strength is to be combined, as this treaty contemplates, the whole NATO organization has a fatal weakness. The European Defense Community is needed to give the North Atlantic Treaty Organization a stout and dependable heart.

I do not pretend that it is easy to accomplish this. National habits of thought and traditions have grown strong. The countries concerned have often in recent years been enemies. They have fought each other and there are proud memories of victories and the bitter memories of defeat. This means that greatness is needed if unity is to be achieved. That quality, however, is not lacking. We saw it in fact in the peoples of Europe as they had to face the physical disaster of the recent floods. We also found among the statesmen of Western Europe, and so far as we could judge among the peoples of Western Europe, a real determination to take the hard political decisions which would bury the evil of the past and fortify the good.

After our friendly talks, we know, and gladly report, that the political leaders in each of these countries are men of vision and stature. They look not backward but forward. They see the land of promise that lies ahead and they desire to move into it.

What Europe Expects of Us

Having spent most of my time in talking about what we hope the European countries will do, I would like to conclude with a mention of what the governments and peoples of Europe expect of us.

Our friends in Western Europe knew, when General Eisenhower was with them in Europe, how deep and firm was his interest in European unity—political, economic, and military. On this trip we were able to assure them that President Eisenhower continues to hold the same interest, the same conviction, with regard to European unity.

In each of these seven countries we visited we found good will and friendliness on the part of the governments and most of the people, but we also found some fear that the United States is not qualified to give the free world the kind of leadership which it needs at this critical moment. It is conceded that we have the material power, but it is questioned whether we have the accumulated wisdom to make the best use of that power. They are particularly concerned because they now have to deal with a new Republican administration, after having worked for 20 years in war and peace with a Democrat [*sic*] administration. To them, as to many Americans, a Republican administration is a novelty, and the unknown always carries a certain amount of fear.

The talks which we had with the political leaders of the countries we visited went far, I think, to dispel these fears insofar as official quarters are concerned. However, the public and the opposition parties seize upon incidents and upon statements made here which seem to them to be reckless. Unscrupulous persons use such incidents and statements as reasons why the European nations should not trust us.

It is important for us all to remember that we do carry a tremendous responsibility. Any false step could mean disaster not only for us but for our friends. Possibly our friends would suffer even more than we ourselves. Therefore, we must be sober and restrained in our national conduct.

That does not mean being timid and afraid to take the initiative, to speak frankly or to make hard decisions. Indecision, weakness, and vacillation are the qualities which most often lead to war. It does mean that in order to win and hold the confidence of those whom we need as friends and allies, we must at all times play the part of a Nation which is fully aware of the grave responsibility which it carries.

That is the kind of leadership we shall get from President Eisenhower, who is accustomed to carry heavy responsibilities and calmly make grave decisions. We shall do well to follow the example which he will set. At this dangerous time peace and security depend upon clear vision, righteous purpose, and firm performance. Let us all work together to achieve these goals.

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3. ADDRESS BY THE SECRETARY OF STATE, APRIL 29, 1953 [1]

Last Monday [April 27] I returned from 5 working days in Europe with Secretary Humphrey,[2] Secretary Wilson,[3] and Governor Stassen.[4] We went to attend the meeting of the Council of NATO.[5] We have reported to the President and to the Congress and now I report to you.

First let me, for background, recall what NATO is. NATO is the grand alliance of 14 nations that was created under the North Atlantic Treaty.[6] That treaty was adopted 4 years ago as a bipartisan act to prevent a third world war coming out of Europe. The administration was then Democratic, but Republicans in the Senate, of which I was then one, took an active part in bringing about Senate consent to ratification. Then, in 1950, General Eisenhower was called to be the first Supreme Commander of the NATO forces in Europe.[7] So he knows a great deal about it. It was indeed his vision, energy, and inspiration which largely converted this organization from a paper blueprint into a solid bulwark which already has tremendous protective value to the United States.

Let me recall what this value is. Suppose, for example, that Western Europe were overrun by the Red armies so that the Soviet world included all of Europe. That would so shift the balance of industrial power that we would be in great peril. Take steel production as an example, because steel is a basic commodity. Today we and our allies have an advantage of about three to one over the Communist world. But if Western Europe were shifted from the free world side to the Red side of the ledger, then the steel ratio would be about 50–50. Under those circumstances the Soviet leaders would be much more likely to attack us than is the case today.

Of course, our concern is much more than material. Europe is the cradle of our civilization and dear to many of us as the home of our ancestors. It would be a terrible blow, spiritually and morally, if

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[1] Delivered to the Nation over radio and television networks; Department of State *Bulletin*, May 11, 1953, pp. 671–673.

[2] George M. Humphrey, Secretary of the Treasury.

[3] Charles E. Wilson, Secretary of Defense.

[4] Harold E. Stassen, Director for Mutual Security.

[5] See the Council's communiqué of Apr. 25, 1953; *infra*, pp. 1631–1633.

[6] Treaty of Apr. 4, 1949, as amended by protocol of Oct. 17, 1951; *supra*, pp. 812–815 and 853–854.

[7] See *infra*, p. 1505.

Europe's religion and culture were to be stamped out by ruthless atheism.

We could not and would not sit idly by in the face of such an attack on Europe. So it is a case where we should seek prevention which is cheaper than cure, as two world wars have taught us. NATO is prevention, we hope, against a repetition of 1914 and 1939.

NATO now has approximately 50 divisions in Western Europe and there are more than 25 divisions in the southern flank of Greece and Turkey. Some of these units are not fully trained and equipped and there is still much to be done to get maximum combat effectiveness. Nevertheless the existing forces have great value as a deterrent to aggression. Europe is not yet fully secure, but it is no longer a "pushover," so weak that it is a temptation to others to seize it by an act of war.

At last week's NATO meeting we tried to find practical ways of making NATO even stronger. We went at this with some new ideas, largely drawn from President Eisenhower's own personal experience and judgment.

COMBAT EFFECTIVENESS TO BE INCREASED

1. We sought military strength which would be born out of economic health, not economic sickness. The European members have been straining toward a theoretical goal and now they are beginning to get out of breath. Since we cannot foresee the year of greatest danger, President Eisenhower believes that it is safest to adopt a pace which can be maintained with growing strength, rather than run the risk of dropping exhausted by the wayside before the haven is reached. Therefore, at this NATO meeting we put our emphasis on getting greater strength by less costly methods. This can be done by improving quality, rather than by seeking an immediate large increase in quantity. In a world of toughness, it is better to be compact and hard rather than to be big and soft. There will be a steady NATO build-up, but in the main this year's and next year's added strength will come through improved quality. That will tend to relieve the excessive strain which has been placed upon the budgets and currencies of some of the countries, including our own. At the same time there will be a big lift in NATO's combat effectiveness. You can figure this to be as much as 30 percent this year.

2. We sought to fill the big gap in European defense which is the present lack of German forces. This gap in the center cannot be made good by any effort, however great, put forward by the other countries. Further, I do not believe that Americans, or British, or French want to anticipate fighting to defend Germany while the Germans look on as spectators. At present Germans are only spectators because the surrender terms do not authorize Germany to have any armed forces.[1]

The continental European countries themselves thought out a solution which was to make agreements largely restoring West

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[1] See the Act of Surrender, May 8, 1945; *A Decade of American Foreign Policy*, pp. 505–506.

Germany's sovereignty and permitting Germans to rearm not just as German national forces, which might serve national ambitions, but as part of a single European Defense Community. This in turn would fit into NATO's defense plans.

These agreements were signed almost a year ago, but still they have not yet been brought into force. At this NATO Council meeting I introduced a resolution calling for the prompt creation of the European Defense Community (EDC). This was unanimously adopted.[1]

All of the EDC governments are fully aware of the importance of early action. But in each of the countries there are parliamentary delays. This strains our patience. But it should not break it. There is no other good solution of the problem of establishing adequate strength and peace in Europe, as the cabinets realize and [,] I trust that the parliaments [,] too [,] will accept that same view during the coming months.

3. We put great emphasis on what is called "infrastructure." That is a strange new word, which has come to have great importance. It means the network of facilities in one country available for NATO forces drawn from different countries. This requires that airfields, pipelines, supply depots, radio communication, radar and the like, in each country, be made available to many national forces on a common basis. In past years, there has been long haggling about working this out. This time we found agreement on a 3-year program for developing this "infrastructure." At moderate cost, it will add enormously to the efficiency of the existing forces. For example, it will create 50 new airfields in a year for common use in Europe. There can be a dispersion and deployment of aircraft on the ground, so that all will not be the concentrated target of a few bombs. And if some airfields are bombed out, there will be alternate fields, well equipped, on which planes aloft can land and take off. This will make NATO forces much more effective and secure.

4. We gave much thought to new tactical weapons, and to the increased power which they can give to the defense of Europe. We are starting some NATO training in these matters with due regard to security.

TALKS WITH MILITARY LEADERS

Just before leaving Paris, I talked at length with two of the top military leaders of NATO, General Ridgway and his Chief of Staff, General Gruenther. Naturally, they would like more land and air strength and they are particularly anxious to see the defense forces rounded out with German contingents. However, they believe that today there is enough strength so that if the Soviets planned to overrun Europe, it would be necessary for them first largely to re-enforce the Red armies now in or near Eastern Germany. This they could not do without our knowledge. This fact alone is of great importance.

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[1] Resolution of Apr. 24, 1953; Department of State *Bulletin* May 11, 1953, pp. 674–675.

It means that we would probably get the opportunity to bring into final readiness counter measures both in Europe and elsewhere, which might in fact deter the actual assault and preserve the peace.

What I have said gives you a good idea of what went on at our formal NATO meetings. Outside of these meetings, we talked informally and directly with most of the members. We did not talk to them as though NATO were just our responsibility and not theirs. After all, NATO is a joint enterprise, and it has its primary location in Europe.

Also we discussed with the British and the French, among others, the matter of general economic aid from the United States. Some call it a "hand-out." That is hardly fair, because the United States has gained intangible, if not specific, benefits.

Americans have always generously responded to emergency needs. But outright grants ought to be reserved only for real emergencies. They are a kind of crutch which may be needed from time to time. But as soon as there is economic health and the opportunity for a people to earn their way by their own efforts, then the crutch ought to be thrown away. We believe that this is becoming increasingly possible.

We talked over that viewpoint with our friends in Europe. We found that they welcomed a relationship which would be dignified and self-respecting for all concerned. There are plenty of ways whereby the British and French and others can contribute in Europe or Asia to special efforts which are in the common interest. Then they will be more and more earning their way.

We shall still be spending substantial sums, and these friendly countries do not need to anticipate too great reduction in their dollar income. But our Government will be specifically getting, for the dollars it spends abroad, what may enable it to save in other security measures and thus, on balance, get more security for less money.

At this last week's NATO Council meeting, in the ways I indicated, there came into NATO a transforming spirit. The full effect will only be apparent in later years as we look back. But as we look forward, we can anticipate that NATO will never grow into an organization which sucks the life blood out of the member countries, but rather be the shield behind which confidence will grow to invigorate all of the protected nations.

It has been said that the proper role of military strength is to give time for moral ideas to take root. The role of NATO is to enable the great moral and spiritual principles of Western civilization to take root and blossom again after the ravages of two world wars. That was the conception of those Americans who, without regard to party, joined with the other free peoples to create the North Atlantic Treaty Organization. That is the conception for which so many Americans, without regard to party, have given their dedicated efforts. That is the conception which we believe is now nearing realization.

President Eisenhower, in the message which he sent through us to the NATO Council, said, "NATO has become a mighty force for peace and an instrument of enduring cooperation among the Atlantic peoples."[1] As such it greatly increases what the President, in his challenging address, called "the chance for peace."[2]

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4. ADDRESS BY THE SECRETARY OF STATE, DECEMBER 22, 1953[3]

Last week the NATO Ministerial Council met in Paris.[4] The United States was represented by the Secretaries of State, Treasury, and Defense, and by the Director of the Foreign Operations Administration. We reviewed the progress made and we made plans for the future.

This is important business from the standpoint of the American people. NATO comes closer than anything yet to being an effective international community police force. Fourteen nations have joined together to create a defensive organization committed to protect the security of a large area. This area is vital to the defense of freedom. It constitutes the principal home of Western civilization. Also, the Western European part contains coal and iron and industrial plants which, if they fell into hostile hands, would markedly shift the balance of power away from us.

All of the 14 member nations have made important contributions toward building this North Atlantic Treaty Organization. Many strategic facilities are contributed by smaller nations. Most of the forces in Europe are contributed by nations other than the United States, although there are approximately six United States divisions, with air and naval support, now in the European theater. The United States has made the largest single contribution to arming and equipping the NATO forces. We have put some $11 billion into this phase of our effort.

The project is so vital and the investment in it so large that it deserves careful supervision. That is, of course, the continuing task of our able permanent representative at NATO's headquarters in France.[5] But also it is important that Cabinet Ministers from the 14 countries should come together to talk about NATO and its problems.

THE "LONG HAUL" CONCEPT

We found the Organization in good shape. It has adapted itself to a new concept which the United States brought to the NATO meeting of last April.[6] This was that NATO should operate on a budget which the member nations can sustain for what may be a long period.

When NATO was organized in 1950, many thought that general war might come quickly and that NATO should build itself up, on an emergency basis, to full defensive strength. That involved setting a pace which none of the member nations could sustain indefinitely.

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[1] The full text of President Eisenhower's message to the North Atlantic Council (submitted to it on Apr. 23, 1953), appears *ibid.*, p. 673.

[2] Address of Apr. 16, 1953; *supra*, pp. 65–71.

[3] Delivered before the National Press Club; Department of State *Bulletin*, Jan. 4, 1954, pp. 3–71.

[4] See the Council's communiqué of Dec. 16, 1953; *infra*, pp. 1633–1636.

[5] John C. Hughes.

[6] See the Council's communiqué of Apr. 25, 1953; *infra*, pp. 1631–1633.

At the Ministerial Council Meeting of last April, virtually every member nation was saying that it could not carry its allotted share of the NATO program without large grants of economic aid from the United States. The total was a figure which the United States itself could not indefinitely support.

It seemed to us that it was justifiable and even prudent now to moderate NATO's emergency—and exhausting—pace.

So, at the last April Council Meeting, the United States put forward a new concept, now known as that of the "long haul." That means a steady development of NATO, which, however, will preserve, and not exhaust, the economic and fiscal strength of member nations.

Some feared that this shift, from the mood of emergency to that of a steady pace, could not be made without destroying the morale of the Organization and leading to its disintegration. Some felt that what we proposed would be misinterpreted as a loss of United States interest in NATO. We knew that the change of pace could not be safely accomplished except by skillful handling. But that has now been done. It was made possible by comprehension on the part of the permanent staff and the military leaders of NATO. They were statesmen, as well as soldiers, and they understood and adapted themselves to the need of taking into account all of the risks—not merely the military risks, but also the nonmilitary risks.

Today we can honestly judge that NATO is on a sustainable basis. This sustaining basis is one which largely reduces the necessity for continuing United States economic aid to the countries of Western Europe.

These countries have made a good economic recovery. Their currencies are showing greater strength and stability. The inflationary pressures are reduced, as a result of sounder fiscal and monetary policies. There is also some progress toward greater economic freedom and liberalization of trade, though there continue to be serious restrictions on the movement of goods, and especially on the import of dollar goods.

These NATO meetings, along with the activities of other international groups, are spreading an understanding of the requirements for economic strength, which is basic to the political and military strength of the West.

THE DETERRENT OF CAPTIVES' DISCONTENT

It is important to bear in mind that while military power is a principal deterrent to armed aggression, it can be importantly reinforced by other deterrents. For example, the Soviet rulers may hesitate to attack if contrasting social conditions bring them domestic troubles.

At our Paris meeting it was generally judged by the NATO Ministers that the danger of open military aggression from Soviet Russia was less than it had been a year or two before. That, if true, is largely due to NATO's growing power. But also it is due to internal pressures and discontents resulting from the bad living conditions within the Soviet bloc and the contrasting better conditions within the neighboring free countries.

It seems that the Soviet rulers' exploitation of their own and the satellite peoples has reached a point where it would be reckless for them to engage in general war. All recent major speeches by high Soviet officials seek to encourage their people to hope for more food and more consumers' goods of better quality. That clearly shows a popular demand so insistent that it cannot be ignored. It suggests that perhaps the workers within the Soviet Union may be allowed to work less for military purposes and more for their own good. That, of course, would be a welcome approach to the practices observed in the free world.

The revolt of last June within East Germany[1] exposed the vast underlying discontent which exists among the workers within the satellite areas. It indicates that if there were an armed invasion of Western Europe, the Soviet lines of communication might not be altogether secure.

These were among the factors which, the Foreign Ministers at Paris felt, operated to deter an invasion of Western Europe. It shows how important it is for the free world countries to continue to provide living standards really superior to those within the captive world.

I am not suggesting that an orgy of self-indulgence is the answer to the Soviet menace. The danger is immense and persistent. This is no time for the free world to relax and to weaken its own military capacity to defend and strike back. We are, however, at a time when we can usefully confront [the] Soviet rulers with a demonstration of our capacity to do two things at once—i. e., to develop military power and to increase well-being.

I said to the NATO Council—

> We are convinced that our members can provide the resources for an adequate defense, including a wide range of new weapons, and at the same time permit a steady improvement in the living standards and general welfare of our peoples. . . . That itself is a security measure. It nullifies the Communists' subversive efforts against the free governments. Also, it creates a striking contrast to despotism, and thus confronts the Soviet rulers with a dilemma at home.

We gave consideration to the problem of the defense of the North American Continent. Canada and the United States form part of the treaty area and the Council recognizes that it is important to protect North America's military potential. The temptation to aggression would be great if the aggressor could, by an initial blow, knock out the industrial power of North America.

It is not feasible to provide an absolute insurance against serious damage to our cities and industries. However, it is possible to secure a substantial measure of protection.

The Foreign Minister of Canada joined with us in emphasizing the importance to NATO of defensive measures within this continent. But we both indicated that this would not be sought at a scale of expense which would impair the ability of our countries to contribute to other aspects of the NATO effort.

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[1] See *infra*, pp. 1744–1749

We were greatly impressed by the spirit of vigorous fellowship which pervades NATO. The permanent NATO staff, drawn from 14 countries, is dedicated to a common purpose. That is an inspiring fact. Indeed, NATO is a unique organization in more respects than one. Never before have sovereign nations so freely exchanged military information. Never before have nations taken recommendations from an international body concerning length of military service, balance of forces between military services, and other equally delicate problems and, what is even more surprising, accepted them in spite of adverse domestic political considerations.

The American people can take pride in NATO and take comfort in it. We should sustain it on the basis now planned—a basis which involves a fair sharing of burdens and benefits, and which combines growing strength for NATO with economic and fiscal integrity for ourselves and other member countries.

Certainly, each member of NATO gets out of it much more than the price of admission. It is costly, but it is not nearly as costly as though each tried to buy separately, for itself alone, the amount of security that it now gets on a collective basis. Indeed, no nation, at any cost, could get alone what NATO provides for all its members.

THE PRECARIOUS FOUNDATION

So far, so good. However, if we go farther and delve deeper, it is not so good. NATO has become a splendid structure. But it rests upon a foundation which is precarious and which must cause us grave concern.

United States postwar policy has consistently recognized the imperative necessity of a closer integration of Western Europe. Congress expressed that when it adopted the European Recovery Program in 1948,[1] when it ratified the North Atlantic Treaty in 1949,[2] and when it subsequently provided economic and military assistance to Europe.[3] In so doing, our Congress was not imposing an American concept on Europe. It was endorsing a conviction that every Western European statesman of this generation has eloquently and forcefully expressed.

Actually, much progress has been made toward economic, military, and political unity.

A Coal and Steel Community has already been created[4] and the possibility of broader unity now resides in the treaty to create a European Defense Community (EDC).[5] This treaty was signed in May 1952 by France, Italy, Belgium, the Netherlands, Luxembourg and the West German Republic. In essence, this treaty provided for the establishment of a common military force, drawn from the six countries, which would be placed under common institutions created by them. They would operate under a single budget, with common procurement of military equipment. They would have similar uniforms and training and would be put at the disposal of the NATO Supreme Commander.

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[1] See the Economic Cooperation Act of 1948 (*A Decade of American Foreign Policy*, pp. 1299–1321) and S. Rept. No. 935, 80th Cong., 2d sess.

[2] See the Senate Foreign Relations Committee's report on the North Atlantic Treaty, *supra*, pp. 825–852.

[3] See the Mutual Security Act of 1951, as amended, *infra*, pp. 3059–3086.

[4] See *supra*, pp. 1039–1078.

[5] *Supra*, pp. 1107–1150.

At the same time that this EDC treaty was signed, the United States, the United Kingdom, and France signed a convention with the West German Republic designed, in effect, to end the postwar occupation.[1] This convention, however, provides that it does not come into force unless the EDC treaty comes into force.

It was contemplated by the EDC treaty that it would be ratified within 6 months. Now 18 months have elapsed and there is still no assurance of early action, although good progress toward ratification has been made in several of the EDC countries. No Parliament to which the EDC treaty has been submitted has voted against ratification. But some of the Parliaments have not wanted to face the issue.

None of us must underestimate the difficulty of affirmative action. It involves a merging of national institutions which the nations identify with their respective histories. It involves substituting fellowship for hatreds which are both ancient and recent. However, the day of decision cannot be indefinitely postponed. We are close to a date when nonaction is the equivalent of adverse action. This is the more true because the Mutual Security Act of 1953 [2] conditions much of our European military support upon the actual existence of EDC.

"THE DEADLY DANGER OF PROCRASTINATION"

General Eisenhower, in an address made in London on July 3, 1951,[3] made an appeal for European unity which has rarely, if ever, been equaled in its eloquence and in the clarity of its reasoning. After speaking of the immense gains that could be achieved through unity, General Eisenhower pointed out that "the project faces the deadly danger of procrastination. . . . The negative is always the easy side, since it holds that nothing should be done. The negative is happy in lethargy, contemplating, almost with complacent satisfaction, the difficulties of any other course."

Since he spoke, 2½ years have gone by and the truth of his observation has been manifest.

When I was in Paris last week, I mentioned the importance of action soon, and said that if there was not an early and affirmative response, the United States would have to undertake an "agonizing reappraisal" of basic foreign policy in relation to Europe.[4]

That statement, I thought, reflected a self-evident truth. Successive international communiques issued throughout this year have said that the consummation of EDC was "urgent," of "paramount importance," "necessary, " "needed" and "essential." But these weighty utterances seem not to have sunk in. Let me, therefore, mention three of the factors which make EDC essential.

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[1] Convention of May 26, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

[2] Act of July 16, 1953 (67 Stat. 152); see also *infra*, pp. 3059–3086.

[3] Department of State *Bulletin*, July 30, 1951, pp. 163–165.

[4] Statement of Dec. 14, 1953; see the New York *Times*, Dec. 15, 1953.

1. There is the immediate problem of the so-called "forward strategy" in Western Europe. This means a plan, and a will, to defend the entire area of the prospective EDC countries rather than to contemplate from the beginning the abandonment of advanced positions in Germany, which might make the rest untenable. In pursuance of this strategy, a substantial part of the United States Army occupies advanced positions in West Germany. However, without the EDC, it is not legally permissible to draw on German strength for the defense of German soil. Equally, of course, it is not acceptable that the United States should continue in the role of being a principal defender of Germany, while the Germans themselves look on as mere observers. The "forward strategy" was initiated in September 1950 on the assumption that there would soon be German participation in the common defense.[1] If that prospect disappears, then the basic strategy of NATO will have to be reexamined.

2. There is not merely the problem of providing German contingents, but of doing so in a form reasonably acceptable to Germany's neighbors. EDC meets this problem by limiting German forces and providing that the Germans who are armed will form part of a six-power army. They will not be subject to a German General Staff and they cannot be used for national purposes. This gives assurances to France and other nations, including the Soviet Union, which have a legitimate concern that Germans shall not be rearmed under conditions which would make possible a recurrence of such invasions as they have suffered from German militarism.

3. There is the problem of permanently sealing the breach between France and Germany.

Twelve years ago, as the United States formally entered into World War II, I wrote:

> Continental Europe has been the world's worst fire hazard. . . . Now the whole structure is consumed in flames. We condemn those who started and spread the fire. But this does not mean when the time comes to rebuild that we should reproduce a demonstrated fire trap.[2]

To my mind this is the dominant consideration. It takes precedence over getting German divisions under NATO, important as that is. The essential is to end, once and for all, the suicidal strife which has long plagued the Western World. It has so weakened it, both materially and in prestige, that Western civilization can now be seriously challenged by a materialist civilization, which, behind a thin veneer of sanctimonious theory, actually reproduces the human degradation of dark ages.

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[1] See the communiqué of the Fifth Session of the North Atlantic Council, Sept. 26, 1950; *infra*, pp. 1607–1608.

[2] "Peace Without Platitudes," *Fortune*, January 1942, p. 87.

"ALTERNATIVES" TO EDC

It is said that there must be alternatives to EDC. Of course, if EDC fails, there will be things to be done. We are not blind to that. But I do not see "alternatives" in the sense of other practical ways of accomplishing the three EDC goals I mentioned.

Let us, by way of illustration, take the "alternative" which is most mentioned, that is, to restore sovereignty to the West German Republic and then to make it a member of NATO.

That is simply said, but hardly done; at best it accomplishes merely the first of the three purposes of EDC. It would bring German soldiers into NATO.

But how about the second goal, of doing this in a way to reassure France and Soviet Russia? It would recreate a German national force which could be withdrawn for national purposes at the will of a German general staff. This is not reassuring.

How about the third goal, of creating organic unity in Western Europe which will assure an ending of its suicidal strife? This great goal will be lost in the rebirth of nationalism.

But supposing we decided, as we might, to try this way. Let us not imagine that the procedure would be simple or expeditious. First, it would call for renegotiation of the present four-power convention designed to restore West German sovereignty.[1] That is because, as I pointed out, the present convention depends upon the coming into force of EDC. The renegotiation of that treaty under present circumstances might not be easy, nor is it clear that the four powers would again readily find themselves in agreement.

If, however, this hurdle can be overcome, there would then be the problem of bringing West Germany into NATO. This would require first of all willingness on the part of West Germany to apply for NATO membership. This willingness cannot be assured. Many Germans strongly oppose the re-creation of a German national army with a German General Staff.

There would then be the problem of securing the necessary amendment of the NATO treaty by each of the 14 member nations. There are many in France who wonder whether a French Parliament which rejected German rearmament under the severe limits of EDC would ratify an amendment to NATO which would entitle West Germany to arm without those limitations. France has in this matter a legal power of veto.

There are, of course, many other suggested "alternatives." I would not want to be understood as rejecting any of them. But all of them, as President Eisenhower has said, are "feeble." Also, they all would take time, a factor which cannot now be ignored.

Powerful forces are now here to draw together the six nations of the proposed European Defense Community, and Britain and the United States are prepared to pledge to this Community their firm support. But unless unity is achieved soon, this historic moment may pass[,] and different and divisive forces may take command.

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[1] Convention of May 26, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

Already there is evidence of this in Europe. The Soviet Union is playing the dangerous game of seeming to support France and Germany against each other. Soviet propaganda is recreating in France the fears of Germany. It is creating in Germany resentment against France, on the ground that its indecision is prolonging an occupation of Germany which already has lasted for nearly 9 years since the armistice. Chancellor Adenauer already last week found it necessary to plead with the German people to be patient.[1] The fact that that plea was necessary should be a warning sign that we do not have time to burn.

We have reached one of those points where the perfect is the greatest enemy of the good. No doubt the EDC treaty is less than perfect. However, it does decisively pose the fateful choice. It has become the symbol of Europe's will to make it possible to achieve a unity which will dependably safeguard our Western civilization and all that it means in terms of human dignity and human welfare.

Of course, if EDC fails, we shall do something. But what we then do may be quite different from what we had hoped would be possible. It may involve our tactically picking our way through a maze of manifold perils, as of old.

I have confidence that the United States is strong enough, resourceful enough, and wise enough to preserve its vital interests even in the face of a failure of the EDC and the European unity it symbolizes.

We need not, however, end upon any somber note. I do not believe that there will be failure to achieve European unity. My belief derives from the fact that the peoples of Europe do in fact possess qualities which make it imperative that Europe should be saved.

Europe is important for many reasons. It is strategically located and it has industrial power. But above all, Europe is important because of its people. They possess to a unique degree the qualities which ennoble a civilization which bears the deep imprint of Christianity. That is a fact which it is, I think, appropriate to mention as we approach Christmas Day.

What are those qualities? In individuals they are minds trained to reason clearly and serenely, vision to see far and truly, hearts which comprehend the Fathership of God and the fellowship of man, and, finally, capacity to act rather than to be merely contemplative.

In government, the quality we respect is willingness to trust, in great matters, to the response of individuals possessed of the qualities I mention.

I have hopes in the response to be made regarding European unity, because I have faith in our civilization and in its human products. Delays and difficulties so far encountered are above all due to the fact that the issues have been obscured, so that the people do not see and think and comprehend and act.

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[1] Speech of Dec. 22, 1953; New York *Times*, Dec. 23, 1953.

That murky period is coming to an end. As the day of decision irrevocably approaches, so does comprehension grow. Therefore we can have high hopes.

I have dealt in my talk with NATO because a report on that organization is due the American people. But also we can find elsewhere good ground for hope.

Our society of freedom has gained a clear moral initiative over the forces of reaction.

After years of futile and evasive debate on the part of the Soviet Union about atomic weapons, it has at least indicated a willingness to talk confidentially, and we hope seriously, about this problem.

After months of attempted evasion, the Soviet Union finally, it seems, will meet and talk, again we hope seriously, about the unification of Germany and the liberation of Austria. We have not yet had any formal reply to our invitation to meet at Berlin on January 4,[1] but the Soviet statement received yesterday speaks of "the forthcoming conference in Berlin."[2]

The coming year will be a year for great decision. There lie ahead European unity, a possible recession of the horror of atomic warfare, and a beginning of an ending of the unnatural division of Europe.

In Korea we look forward to the first year of peace since 1949.

The problems are many and grievous, but our hopes are high. We can, therefore, in all honesty look forward to the happier New Year, which I wish you all.

[RADIO INTERVIEW WITH THE SECRETARY OF STATE, APRIL 4, 1954] [3]

[REPORT BY THE SECRETARY OF STATE TO THE PRESIDENT, MAY 17, 1955] [4]

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[1] See the American note of Dec. 8, 1953, to the Soviet Union; *infra*, pp. 1849–1850.

[2] Note of Dec. 21, 1953, regarding President Eisenhower's "atoms for peace" program; Department of State *Bulletin*, Jan. 18, 1954, pp. 80–82.

[3] *Ibid.*, Apr. 12, 1954, pp. 561–562.

[4] Made over television from the President's Office; *An Historic Week—Report to the President, May 17, 1955* (Department of State publication, Series S, No. 34; 1955).

Tripartite Consultations, 1950–1953

[See also London and Paris Conferences, infra, pp. 1470–1504. For the texts of documents regarding Ministerial Sessions of the North Atlantic Council, see Section B, infra, pp. 1594–1660. Documents concerning bilateral meetings between United States leaders and Western European statesmen are printed in Section C, infra, pp. 1660–1707.]

5. COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (LONDON), MAY 13, 1950 [1]

The three foreign ministers of Great Britain, France and the United States concluded today their discussions which began on Thursday.[2]

These discussions dealt with various problems in many parts of the world where the interests of their countries are engaged. Their main and common purpose has been directed toward reducing the risks of war and establishing the conditions of a lasting peace in accordance with the desire of all peoples. In the view of the ministers this requires a closer coordination in the employment of their joint resources to underpin their economies in such a manner as to permit the full maintenance of their social and material standards as well as the adequate development of the necessary defense measures. The ministers are confident that the peoples of the free world who command by far the greater part of the industrial and technical resources of mankind can achieve both of these aims.

The strength of the free world will never be used for aggressive purposes. The ministers find it necessary to restate this fundamental truth in the face of the calculated campaign of misrepresentation of our purposes and policies conducted by the only militaristic and aggressive power in the world.

Faith in freedom should not be taken for granted, but should be built into a dynamic force and steps should be taken to increase public understanding of the exact nature, methods and dangers of the threat to its existence.

The ministers agreed upon the main lines of their policy in all parts of the world. Consideration was given to their policy regarding Germany and they agreed upon a general declaration in regard to it.

This is being communicated immediately to the German Federal Government and will be published on Monday, May 15.[3]

The ministers reaffirmed their long declared desire for an early Austrian treaty and hope to have a further exchange of views on this subject in the next few days.[4]

The ministers surveyed the situation in Southeast Asia in the light of emergence as independent nations of a number of countries who had not previously been in control of their own affairs and of the fresh problem created by the advance of Communist imperialism to the borders of the area. The ministers expressed the firm intention of encouraging and supporting these new governments. They consider that the region as a whole is economically underdeveloped and that it is desirable that all governments in the region should collaborate to intensify measures of development designed to raise the general standard of living.

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[1] New York *Times*, May 14, 1950, p. 3.

[2] May 11, 1950.

[3] See the declaration of May 14, 1950; *infra*, pp. 1709–1711.

[4] See *infra*, p. 1882.

They are agreed as to the seriousness of the situation and informed each other regarding the steps each were taking in discharge of their respective responsibilities in the area. Among other measures the ministers decided to coordinate their efforts to prevent the smuggling of arms into the area and to take every opportunity of exposing the aims and methods of Communist imperialism which, whilst pretending to encourage Nationalist movements, is in fact seeking to control and exploit them for expansionist policies.

The three governments are basically in agreement as to the importance of the political development of the peoples of Africa and the achievement of improved economic and social conditions. The three ministers recognize the need for developing the existing cooperation amongst the French, British and other African powers and of the establishment of close cooperation between those countries and the United States to achieve this end.

It was decided that consultations between the three powers should be frequent. The ministers agreed to meet again in the near future,[1] possibly in New York, before the next meeting of the General Assembly of the United Nations.

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6. COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, FRANCE, AND CANADA (LONDON), MAY 18, 1950[2]

During their talks last week, the Foreign Ministers of France, the United Kingdom, and the United States considered how the countries of Western Europe and North America might improve their cooperation on economic problems which require adjustments by them in the period immediately ahead. The emphasis in their discussions was on the positive courses of action which need to be taken.

The Secretary of State of the United States emphasized the great value of the existing relationships between the Organization for European Economic Cooperation and the United States[3] and believed that it would be helpful to broaden this relationship to provide for regular discussion and consideration of the problems requiring cooperative action in the coming period. He pointed out that, while the European Recovery Program terminates in 1952, the interest of the

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[1] See *infra*, doc. 8.

[2] Department of State *Bulletin*, May 29, 1950, p. 827.

[3] See Ex. Or. No. 10133 (15 *Fed. Reg.* 4159); *ibid.*, Aug. 7, 1950, p. 235.

United States in Europe will necessarily continue and that study of the problems is now going forward actively in the United States on the highest governmental level. During conversations this week, the Canadian Secretary of State for External Affairs has indicated a similar interest on the part of his country to participate in the study of these problems. The four Ministers believe that this relationship would permit a close coordination of the work now going forward in the United States and Canada on these problems with the parallel efforts of the Organization for European Economic Cooperation.

The Foreign Ministers of France and the United Kingdom stated their hope that the Organization for European Economic Cooperation would invite Canada and the United States to establish, on an informal basis, a working relationship with the Organization for European Economic Cooperation whereby the two countries could join with the Organization for European Economic Cooperation in the discussion and consideration of the action to be taken on these problems.

It was agreed that the proposed working relationship between Canada, the United States and the Organization for European Economic Cooperation would not interfere with the present functions of the Organization for European Economic Cooperation as an organization devoted primarily to European economic problems as provided in the convention for European economic cooperation.[1]

The four Ministers were in agreement that the economic and financial problems arising from the defense effort fell primarily within the competence of the North Atlantic Treaty organization. They recognized also the concern of the North Atlantic Treaty with broader questions of economic relations among the signatory countries and welcomed the decision of the Council to have the deputies consider what further action should be taken under article II of the treaty.[2]

The four Ministers were further agreed that it was their hope, through a new working relationship, to proceed promptly toward finding solutions of the general economic problems which lie immediately ahead along lines which would eliminate conflict in their international economic policies. They recognize that Canada, the United States, and the West European countries have a continuing interest in developing and strengthening economic collaboration between them in order that they can make together their full contribution to the building of a peaceful and prosperous world order. They further realize that the development and strengthening of the economic ties of this community of nations may in the future require formal organizational expression, but they believe it is unnecessary at this time to attempt to suggest precisely what form of arrangement will prove to be best suited to assist the taking of common action by the community.

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[1] *Supra*, pp. 992–1000.

[2] See the communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950 (*infra*, pp. 1604–1606) and the Council's resolution on central machinery (Department of State *Bulletin*, May 29, 1950, p. 831).

7. INTERIM COMMUNIQUÉ ON THE MEETING OF FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (NEW YORK), SEPTEMBER 14, 1950 [1]

The Foreign Ministers of France, the United Kingdom and the United States met at New York on September 12, 1950, in another of their regular meetings.

The meeting recessed on September 14 in view of the meeting of the North Atlantic Council fixed for September 15.[2]

The Ministers' discussion from September 12–14 covered a broad range of important problems reflecting the serious situation which confronts the world today. The Ministers were fully agreed that the most urgent of these problems was that of strengthening the defenses of the free world both in Europe and in Asia and were equally agreed that immediate effective steps must be taken to this end.

The Ministers will resume their conversations on September 18,[3] after the meeting of the North Atlantic Council. In the interval they will have had an opportunity to exchange views with representatives of other interested governments and to receive and examine the reports of a number of *ad hoc* subcommittees which were set up during the present conversations.

In so far as Europe is concerned, the Ministers had a preliminary exchange of views on the following questions: (1) the establishment of integrated forces for the defense of Western Europe; (2) the prompt increase of forces in being in Western Europe; (3) arrangements for expediting and expanding the production of necessary equipment and supplies for this defense effort and for financing this effort; (4) the possible relation of Western Germany to this effort; (5) steps to be taken to safeguard internal security in Western Germany and Berlin; and (6) appropriate measures, such as termination of the state of war and further relaxation of occupation controls, for accelerating the restoration of the position of Germany as a member of the family of free nations.[4]

In so far as Asia is concerned, the Ministers welcomed the great manifestation of solidarity of fifty-three nations in support of the United Nations in meeting the aggression in Korea.[5] They also exchanged views in regard to the following questions: (1) the security of Southeast Asia from direct or indirect aggression; (2) the political, military and economic development of the Associated States of Indo-China; (3) the continuation of the United Nations interest in Korea after the termination of hostilities; and (4) questions concerning the peaceful disposition of the problem of Formosa.

A further communiqué will be issued when the Ministers have concluded their meeting.

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[1] The New York *Times*, Sept. 15, 1950.

[2] See *infra*, pp. 1606–1607.

[3] See the communiqué of Sept. 19, 1950, *infra*.

[4] In this connection, see *infra*, pp. 1711–1713.

[5] See *infra*, pp. 2536–2575.

8. COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (NEW YORK), SEPTEMBER 19, 1950 [1]

The Foreign Ministers of France, the United Kingdom, and the United States concluded their scheduled meetings at New York on September 18, after having participated in the meeting of the North Atlantic Treaty Council [2] and having consulted representatives of other governments interested in the problems before them.

As indicated in the interim communiqué issued on September 14,[3] they exchanged views frankly and fully in regard to a wide range of problems of common concern. The Ministers intend, during the opening days of the General Assembly, to continue their exchange of views as occasion may arise. Some of the questions which they discussed will form the subject of United Nations consideration during coming weeks. The Ministers were agreed that the efforts of the United Nations to resist threats to the peace and to achieve peaceful settlements will receive their firmest support.

The Ministers' chief concern during their present meeting was with urgent measures required to safeguard the security of the free world in Europe and in Asia in order that peace will be maintained. The Ministers were agreed that this will continue to be their chief concern and that, in conjunction with the members of the North Atlantic Treaty Organization and other friendly governments, they will see to it that the necessary measures to achieve this end are worked out and applied with the greatest possible despatch.

In their consideration of German questions, the Ministers were greatly assisted by the report of the intergovernmental study group which has been meeting in London during the past 3 months.[4] The Ministers decided that this group, which was appointed at their London meeting in May,[5] should be continued. The Ministers also had the advantage of the presence in New York of their three High Commissioners from Germany. The conclusions reached by the Ministers on a large number of questions affecting Germany are stated in an annex to this communiqué.[6]

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[1] Department of State *Bulletin*, Oct. 2, 1950, p. 530.

[2] See the Council's communiqué of Sept. 18, 1950; *infra*, pp. 1606–1607.

[3] *Supra.*

[4] The meetings of this group began July 3, 1950. For a list of the members of the United States delegation, see the Department of State *Bulletin*, July 24 1950, p. 156. The report of the group was not published.

[5] See *supra*, docs. 5 and 6.

[6] *Infra*, pp. 1711–1713.

COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (LONDON), FEBRUARY 19, 1952[1]

During their meetings at the Foreign Office on the 17th, 18th, and 9th of February, the Foreign Ministers of the United Kingdom, e United States and France considered a number of questions which ere subsequently discussed with the German Federal Chancellor.[2] ey also examined the relationship to be established between the uropean defense community and the North Atlantic Treaty Organation.

The Foreign Ministers of the United Kingdom and the United tates declared their abiding interest in the establishment and integty of the European defense community and, in association with e Foreign Minister of France, studied means by which their govnments could support and cooperate with the community. These bjects will be matters of continuing consultation between the three inisters and between their governments in order to find appropriate eans of giving the community the desired cooperation and support.

The Foreign Ministers of the United Kingdom and the United tates recalled the decision of their governments to maintain armed rces in Europe which, in association with the European defense rces, will contribute their fair share in joint defense of the North tlantic area.

[*See also* (*1*) *Communiqué by the Foreign Ministers of the United tates, the United Kingdom, and France and the Chancellor of the erman Federal Republic, February 19, 1952* (infra, *pp. 1726–1727*); *and* (*2*) *ipartite Declaration, May 27, 1952* (supra, *pp. 1197–1198*).]

0. COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (WASHINGTON), JULY 14, 1953[3]

The Foreign Minister of France, M. Georges Bidault, the Acting reign Secretary of the United Kingdom, the Marquess of Salisury, and the Secretary of State of the United States, Mr. John ster Dulles, met and consulted together at Washington from July 10 14, 1953.

I

In the course of their consultations, they reviewed a wide range of mmon problems of concern to the three Governments. The topics nsidered have been diverse, but the entire conference has been spired by one dominant purpose. That has been to seek solutions fulfilling the common hope of their governments and peoples for peace, freedom, and justice. They are certain that these same aspirations are shared by peoples everywhere.

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[1] Department of State *Bulletin*, Mar. 3, 1952, p. 325.

[2] See communiqué of Feb. 19, 1952, by the Foreign Ministers and the German hancellor; *infra*, pp. 1726–1727.

[3] Department of State *Bulletin*, July 27, 1953, pp. 104–106.

The three Ministers are convinced that solid foundations for peace can be built only by constructive action to end oppression and remove causes of instability and sources of conflict. Those who genuinely want peace must seek to restore liberty, hope, and human dignity. In their meetings the Ministers have sought answers to existing problems consistent with these principles.

This has been the spirit leading to their conclusions on the future of Europe, the restoration of German unity and of Austrian independence, and the establishment of peace in Korea and Indochina. The same spirit inspires their desire to see true liberty restored in the countries of Eastern Europe. In each case, they have sought means offering the greatest hope of satisfying the general desire for freedom, security, and well-being. They believe that their proposed solutions will help to achieve that stability based on consent which alone can reduce tension and guarantee a durable peace.

It is the earnest hope of the three Ministers that the Soviet Union will approach outstanding problems in the same spirit. In so doing the Soviet Union would contribute to a lasting peace assuring the security of all.

II

The three Foreign Ministers have reaffirmed their resolve to pursue vigorously the policies upon which their Governments have agreed within the framework of the Atlantic Treaty. These policies include the work for European unity of the six European countries which have already set up the Coal and Steel Community[1] and whose Governments have signed the treaty for the European Defense Community.[2]

The three Governments are determined to safeguard, in accordance with the North Atlantic Treaty, the freedom, the common heritage and the civilization of their peoples, based on the principles of democracy, freedom of the individual and the rule of law. They have emphasized their resolve to continue the common defense effort necessary to redress the present lack of balance of power and thus to contribute to collective security and to the maintenance of international peace. The Ministers reaffirmed that the North Atlantic Alliance is fundamental to the foreign and defense policies of the three Governments. They were agreed that the improved prospects of peace were largely due to the existence of the alliance and that its defensive strength must be maintained. They wish to pay tribute to the vital work of the North Atlantic Council.

The three Ministers are instructing their Governments' Permanent Representatives to the North Atlantic Council concerning the discussions they have held in order that the other member nations of NATO may be informed in accordance with established practice.

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[1] See *supra*, pp. 1039–1078.

[2] *Supra*, pp. 1107–1150.

III

Convinced that no effort should be spared to strengthen European unity within the Atlantic Community, the three Ministers have noted that the Coal and Steel Community, the result of a French initiative, is now operating successfully. The establishment of the European Defense Community constitutes a necessary step to the same goal; meanwhile the work of creating a European Political Community is being pursued by the six Governments.[1] They have noted the steps already taken or contemplated by the British Government to establish close links with these communities.

The three Ministers were therefore agreed that:

(a) the above institutions of a European Community will strengthen the Atlantic Community and will in turn be strengthened by association with it;

(b) those constructive efforts to build a stable, secure European Community are a major contribution toward world peace. Since the European Community corresponds to the lasting needs of its members and their people for peace, security and welfare, it is to be looked upon as necessary in itself and not linked up with existing international tensions.

(c) such a Community, peaceful by its very nature, is not directed against anyone. The interests and security of all countries cannot be better safeguarded than by the removal of causes of conflict in Europe. Indeed, the provisions laid down in the European Defense Community Treaty are a guarantee that its forces would never be used in the service of aggression.

(d) designed to put an end to the conflicts of the past, the European Community does not exclude any State; on the contrary, the six member-countries have repeatedly stressed that other free countries of Europe may become members of the Community or be associated with it.

IV

The three Ministers have also given further consideration to the problem of the reunification of Germany. The grave events which took place recently in Berlin and in the Soviet Zone once again gave proof of the will to independence and the indomitable determination for freedom of the inhabitants of these areas.[2]

These developments have confirmed the view of the Ministers, that the early reunification of Germany, in accordance with the legitimate aspirations of the German population, would be a great contribution to the easing of international tension.

The three powers have made sustained efforts to reach this goal. They have, in the course of recent years addressed several notes with constructive proposals to the USSR, the last dated September 23, 1952[3] to which no reply has yet been received. These notes responded to the overwhelming desire of the German people to see unity reestablished in freedom, as reflected most recently by the Resolution of the German Bundestag of June 10 of this year.[1]

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[1] See *supra*, pp. 1201–1232.

[2] See *infra*, pp. 1744–1749.

[3] *Infra*, pp. 1819–1821.

An early and orderly progress in this direction requires the cooperation of the Soviet Government.

Mindful of the special urgency which recent events have given to the question of the unification of Germany, the three powers have resolved to make a new effort to bring to an end the division of Germany.

The three Governments have therefore decided, in consultation with the German Federal Government, to propose a meeting in the early autumn of the Foreign Ministers of France, the United Kingdom, the United States of America, and the USSR to discuss directly the first steps which should lead to a satisfactory solution of the German problem, namely, the organization of free elections and the establishment of a free all-German government.

This meeting should also consider the conclusion of the Austrian Treaty.[2]

V

The three Ministers reviewed the situation in the Far East.

In reviewing the Korean situation the three Ministers reaffirmed their admiration for the gallantry of the United Nations forces, including the indomitable forces of the Republic of Korea, defending the free world's cause. They reaffirmed their strong support of the efforts of the United Nations Command to conclude an early armistice consistent with the United Nations' aims and the determination of their governments to continue to work toward that end.[3] They agreed to pursue every effort to assist the stouthearted and sorely tried Koreans to reunite peacefully under institutions of their own choosing.

They considered that, in existing circumstances and pending further consultation, the common policies of the three Powers towards Communist China should be maintained. They resolved that, if the Communists should renew their aggression in Korea after an armistice and again threaten the principles defended by the United Nations, their governments would as members of the United Nations again support the restoration of peace and security.[4]

The Foreign Ministers were of the opinion that an armistice in Korea must not result in jeopardizing the restoration or the safeguarding of peace in any other part of Asia. They hope that any armistice accepted by the United Nations would be a step forward in the cause of peace everywhere, and in particular in the Far East.

The current situation in Indochina was examined. The three Foreign Ministers paid tribute once again to the heroic efforts and sacrifices of the soldiers of the French Union, be they from France,

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[1] Office of the U. S. High Commissioner for Germany, *Documents on German Unity*, vol. IV (Bad Godesberg-Mehlem, 1953), p. 15.

[2] The meeting here referred to was eventually convened in Berlin, Jan. 25–Feb. 18, 1954; see *infra*, pp. 1839–1871.

[3] See *infra*, pp. 2654–2662.

[4] See *infra*, p. 2662.

Vietnam, Cambodia, Laos or other parts of the Union. They agreed that the struggle in defense of the independence of these three nations against aggressive Communism is essential to the Free World, and they exchanged views on various measures to hasten a satisfactory outcome and the restoration of peace in Indochina.

The Foreign Ministers of the United Kingdom and the United States noted with great satisfaction the proposal of the French Government to open discussions with each of the Governments of Cambodia, Laos, and Vietnam with a view toward completing their sovereignty and independence.[1] They agreed that this initiative was a most important and auspicious step toward perfecting a free association of these four nations, since the internal security and stability of the Associated States are best safeguarded by freely established constitutional regimes.

They noted that the French Union offers a harmonious and flexible framework within which the mutual interest of the participants may be guaranteed and their individual interests reconciled. They are convinced that the objective of the French Government is to perfect with the Associated States that mutually desirable cohesion which is indispensable to the success of the common struggle for the independence of the three states and which is therefore of fundamental importance to the security of the whole of Southeast Asia.

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11. COMMUNIQUÉ BY THE FOREIGN MINISTERS OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (LONDON), OCTOBER 18, 1953 [2]

The Foreign Ministers of the United Kingdom, France, and the United States have completed another of their periodic meetings to examine the current situation and common problems. The present discussions, arranged to follow Mr. Eden's return, were held at the Foreign Office October 16, 17 and 18.

The three Ministers approved the reply to the Soviet Union concerning discussions on Germany and Austria.[3] In their notes the three Governments have renewed their invitation to the Soviet Union to attend an early meeting of the Foreign Ministers.

They hope that the Soviet Union will decide to accept. They believe that such a meeting would be an invaluable step toward a reduction of international tension and a solution of major European problems.

The Ministers examined the problem of Trieste. They agreed to persevere in their joint efforts to bring about a lasting settlement in that area.

The Foreign Ministers noted with grave concern the recent incidents culminating in Israeli armed action of October 14 in Qibya, which, according to their information, resulted in serious loss of life and property inside Jordan.[1]

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[1] See the French Government's declaration of July 3, 1953; *Documents on American Foreign Relations, 1953* (New York, 1954), pp. 347–348.

[2] Department of State *Bulletin*, Oct. 26, 1953, p. 546.

[3] See the American note of Oct. 18, 1953, to the Soviet Union; *infra*, pp. 1844–1846.

They recalled the tripartite declaration of May 25, 1950,[2] affirming the determination of their Governments immediately to take action, within and outside the United Nations, to prevent any violation of frontiers or armistice lines.

They have therefore jointly requested an urgent meeting of the Security Council to consider the tension between Israel and the neighboring Arab States with particular reference to recent acts of violence and to compliance with and enforcement of the general armistice agreements.[3]

They reviewed the situation in the Far East. In their strong determination to uphold and consolidate the truce in Korea, the three Governments will continue to cooperate in carrying out the armistice agreement [4] and to work for the early convening of a political conference, as provided in the agreement, in order to achieve a peaceful settlement of the Korean question. Mr. Dulles informed his colleagues of the efforts which the United States Government is making to arrange a meeting of emissaries of each side.

The French Foreign Minister gave an account of the military results obtained thus far in Indo-China, as well as the progress made in negotiations with the Associated States in order to carry out the French declaration of July 3.[5] The three Ministers agreed that the successful conclusion of this war will be an essential step toward the reestablishment of peace in Asia begun by the armistice in Korea.

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12. COMMUNIQUÉ BY THE HEADS OF GOVERNMENT OF THE UNITED STATES, THE UNITED KINGDOM, AND FRANCE (BERMUDA), DECEMBER 7, 1953 [6]

The President of the United States, the Prime Minister of the United Kingdom and the President of the Council of Ministers of the French Republic, accompanied by the Foreign Ministers of the three countries, met in Bermuda from the 4th to 7th of December, 1953. At their meeting they discussed their policies regarding many parts of the world where their countries have obligations. On the conclusion of the Conference they issued the following statement:

I.

Our meetings symbolized and confirmed the unity of purpose of our three countries. We found ourselves in accord on our analysis of the problems confronting us and have agreed on various measures essential for their solution.

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[1] See the oral report by the Chief of Staff of the U.N. Truce Supervisory Organization to the Security Council; U.N. Security Council, *Official Records, Eighth Year, 630th Meeting, 27 October 1953.*

[2] *Infra*, p. 2237.

[3] *Supra*, pp. 698–724.

[4] Agreement of June 27, 1953; *supra*, pp. 724–750.

[5] See *Documents on American Foreign Relations, 1953* (New York, 1954), pp. 347–348.

[6] Department of State *Bulletin*, Dec. 21, 1953, pp. 851–852.

Confident that our united strength is the best guarantee of peace and security we are resolved to maintain our joint efforts to perfect it. If the danger of aggression now appears less imminent, we attribute this to the mounting strength of the free world and the firmness of its policies.

We shall remain resolute in maintaining our solidarity and vigilant against efforts to divide us.

With their material and moral resources we are confident that the free peoples can provide both for their security and for their well being. We dedicate ourselves to work together towards these ends.

II.

The North Atlantic Treaty is and will remain the foundation of our common policy. We discussed means of developing the defensive capacity of our Alliance. Lord Ismay, the Secretary-General of the North Atlantic Treaty Organisation, was present at the conversations on this subject.

In the continuing development of a United Europe, including Germany, we see the best means of achieving greater prosperity, security and stability for its free peoples. We reaffirmed that the European Defence Community is needed to assure the defensive capacity of the Atlantic Community of which it will be an integral part. Within this framework it will ensure intimate and durable cooperation between the United Kingdom and United States forces and the forces of the European Defence Community on the Continent of Europe. The French Minister of Foreign Affairs explained the problems facing his Government in regard to the European Defence Community.

We cannot accept as justified or permanent the present division of Europe. Our hope is that in due course peaceful means will be found to enable the countries of Eastern Europe again to play their part as free nations in a free Europe.

III.

Our three Governments will lose no opportunity for easing the tensions that beset the world and for reassuring all nations that they have no cause to fear that the strength of the West will be invoked in any cause of wrongful violence. On the contrary it is the fundamental principle of the United Nations Organisation, which we serve, that the guarantees against aggression shall be universal in their application.

We are confident that if we remain strong, united and steadfast it will become possible gradually to solve the stubborn problems which have too long been unsettled.

In this spirit we have examined the latest note from the Soviet Government.[1] We approved the text of our replies,[2] which should lead to an early meeting of the four Foreign Ministers. Our hope is that this meeting will make progress towards the reunification of Germany in freedom and the conclusion of an Austrian State Treaty and thus towards the solution of other major international problems.

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[1] Note of Nov. 26, 1953; Department of State *Bulletin*, Dec. 21, 1953, pp. 853–854.

[2] See the American note of Dec. 8, 1953; *infra*, pp. 1849–1850.

IV.

We reviewed the situation in the Far East. The immediate object of our policy continues to be the convening of the political conference provided for in the Korean Armistice agreement.[1] This would provide the means for reaching a peaceful settlement of the Korean question and for making progress in restoring more normal conditions in the Far East and South East Asia.

In Indo-China we salute the valiant forces of France and of the three Associated States of Indo-China fighting within the French Union to protect the independence of Cambodia, Laos and Viet-Nam. We recognise the vital importance of their contribution to the defence of the free world. We will continue to work together to restore peace and stability in this area.

V.

Our meetings have reinforced our solidarity, strengthened our resolve, and fortified our hopes. Confident in our common purposes and united in our views we shall persevere in our policies, whose sole aim is to foster and assure peace.

The London and Paris Conferences, September-October 1954

13. STATEMENT BY THE SECRETARY OF STATE TO THE PRESS, AUGUST 24, 1954[2]

I deeply regret that at the Brussels meeting[3] France did not decide to agree with the other five continental countries which signed the EDC Treaty. That treaty embodies principles which are vital to the perpetuation of peace and freedom in Western Europe. However, we can take comfort from the fact that five of the six signatories stood firm for these basic principles, although they were flexible with respect to their implementation.

I am aware of the fact that the treaty has become highly controversial in France, and I do not minimize the difficulties which lie in the way of ratification. However, I still have hope that, when France confronts the ultimate decision, she will follow her great tradition of idealism, based on a sense of realism, and choose to cement the EDC partnership which is of French conception, rather than stand apart.

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[1] *Supra*, pp. 724–750

[2] Department of State *Bulletin*, Sept. 6, 1954, p. 332.

[3] See communiqué of Aug. 22, 1954; *supra*, pp. 1200–1201. For the details of the Brussels Six-Power Conference of Aug. 19–22, 1954, see *Documentation francaise*, series *Articles et documents*, No. 097, Aug. 24, 1954.

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14. STATEMENT BY THE SECRETARY OF STATE TO THE PRESS, AUGUST 31, 1954 [1]

The French rejection of the European Defense Community [2] is a saddening event. France thus turns away from her own historic proposal made nearly 4 years ago.[3] That proposal sought a unification of the military strength of continental Europe into a single European army so as to end the era of recurrent European wars, the last two of which became world wars.

The French action does not change certain basic and stubborn facts:

(*a*) The effective defense of continental Europe calls for a substantial military contribution from the Germans; yet all, including the Germans themselves, would avoid national rearmament in a form which could be misused by resurgent militarism.

(*b*) Germany cannot be subjected indefinitely to neutrality or otherwise be discriminated against in terms of her sovereignty, including the inherent right of individual and collective self-defense. Limitations on German sovereignty to be permanently acceptable must be shared by others as part of a collective international order.

(*c*) The prevention of war between neighboring nations which have a long record of fighting cannot be dependably achieved merely by national promises or threats, but only by merging certain functions of their government into supranational institutions.

To deal with these facts was the lofty purpose of EDC. Four of the six prospective members of EDC had ratified that treaty—Belgium, Germany, Luxembourg, and the Netherlands.[4] A fifth, Italy, was on the point of ratifying it. The United Kingdom and the United States had made far-reaching commitments of association with EDC.[5] France thus disassociates herself not only from her own proposal but from her prospective partners who had stood united at the recent Brussels conference.

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[1] Department of State *Bulletin*, Sept. 13, 1954, pp. 363–364.

[2] The French National Assembly voted 319–264 against French ratification of the Treaty Establishing the European Defense Community, Aug. 30, 1954.

[3] See the address of Oct. 24, 1950, by the Minister of Defense in the French National Assembly; *Documents on International Affairs, 1949–1950* (London, 1953), pp. 339–344.

[4] The German Federal Republic completed its favorable parliamentary action on the EDC treaty Mar. 19, 1953; the Netherlands, Jan. 20, 1954; Belgium, Mar. 12, 1954; and Luxembourg, Apr. 7, 1954.

[5] See the Association Agreement of Apr. 13, 1954, between the United Kingdom and the proposed European Defense Community (*Memorandum Regarding United Kingdom Association with the European Defence Community;* Cmd. 9126; 1954) and the statement of U. S. policy respecting the European Defense Community and the North Atlantic Treaty Organization issued Apr. 15, 1954 (*supra*, pp. 1198–1200).

The U.S. postwar policies beginning in 1946 were framed on the assumption that Western Europe would at long last develop a unity which would make it immune from war as between its members and defensible against aggression from without. The imperative need for that unity was recognized by the leading statesmen of all the free nations of Europe. The United States joined the North Atlantic Treaty defensive alliance with the Western European countries. We assisted these countries to recover from the weakening of World War II. Both on the economic and military side we made massive contributions. We stationed the equivalent of six divisions in Europe. We furthermore made our leading military figures available to assume high positions in the military organization designed to defend Western Europe.

The French negative action, without the provision of any alternative, obviously imposes on the United States the obligation to reappraise its foreign policies, particularly those in relation to Europe. The need for such a review can scarcely be questioned since the North Atlantic Council of Ministers has itself twice declared with unanimity that the EDC was of paramount importance to the European defense it planned.[1] Furthermore, such review is required by conditions which the Congress attached this year and last year to authorizations and appropriations for military contributions to Europe.[2]

The Western nations now owe it to the Federal Republic of Germany to do quickly all that lies in their power to restore sovereignty to that Republic and to enable it to contribute to international peace and security. The existing treaty to restore sovereignty is by its terms contingent upon the coming into force of EDC. It would be unconscionable if the failure to realize EDC, through no fault of Germany's, should now be used as an excuse for penalizing Germany. The Federal German Republic should take its place as a free and equal member of the society of nations. That was the purport of the resolution which the U.S. Senate adopted unanimously last July,[3] and the United States will act accordingly.

The United States stands ready to support the many in Western Europe who despite their valiant efforts are left in grave anxiety. We need not feel that the European idea is dead merely because, in one of the six countries, a present majority seems against one of its manifestations. There is still much on which to build, and those foundations should not be shaken by any abrupt or any ill-considered action of our own.

It is a tragedy that in one country nationalism, abetted by communism, has asserted itself so as to endanger the whole of Europe. That tragedy would be compounded if the United States was thereby led to conclude that it must turn to a course of narrow nationalism. It is a matter of elementary prudence that the United States should review its dispositions and planning in the light of the new situation now created. We are fortunately so situated that we do not need to identify ourselves with what to us seem self-defeating policies. We have flexibility to adjust our own policies to take account of developments elsewhere. In doing so, we shall be governed by the realization that we cannot in isolation find safety for ourselves.

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[1] See, especially, the North Atlantic Council's communiqués of Feb. 26, 1952 (*infra*, pp. 1620–1624), Apr. 25, 1953 (*infra*, pp. 1631–1633), Dec. 16, 1953 (*infra*, pp. 1633–1636), and Apr. 23, 1954 (*infra*, pp. 1636–1637), and the Council's resolution of Apr. 24, 1953 (Department of State *Bulletin*, May 11, 1953, pp. 674–675).

[2] See section 540 of the Mutual Security Act of 1953 (PL 118, 83d Cong., 1st sess., approved July 16, 1953; 67 Stat. 152) and section 105(b)(1) of the Mutual Security Act of 1954 (PL 665, 83d Cong., 2d sess., approved Aug. 26, 1954; 68 Stat. 835). See also *infra*, pp. 3082 and 3108, respectively.

[3] Resolution of July 30, 1954; *infra*, p. 1732.

When the NATO Ministerial Council came to adjourn last April to meet next December, I pointed out that if the EDC failed of realization that would create an emergency situation which would call for a special meeting of that Council. That condition has arisen, and the United States believes that there should promptly be a special meeting of the NATO Ministerial Council,[1] as well as early consultations with Chancellor Adenauer.[2] We shall move accordingly.

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15. STATEMENT BY THE SECRETARY OF STATE TO THE PRESS, SEPTEMBER 18, 1954 [3]

I return from a 2-day trip to Europe. I conferred in Germany with Chancellor Adenauer [4] and at London with Prime Minister Churchill and Foreign Secretary Eden.[5]

When the French Parliament failed to ratify the treaties to create the European Defense Community and to restore sovereignty to Germany,[6] I felt that my duty was to meet promptly with Chancellor Adenauer. He has sought wholeheartedly to associate Germany with the free West. He has wanted Germany to contribute to the security of the free West. But he has been zealous to find ways whereby German rearmament would be so integrated into a single European force that it could never again serve German militarism.

I found the Chancellor holding steadfast to the lofty concept of European unity. However, he feels that it is no longer possible to withhold sovereignty from Germany until European unity is achieved; also that there can no longer be deferred the preliminary steps which will permit Germany to exercise the inherent right of individual and collective self-defense.

I informed the Chancellor that his views in these respects were fully shared not only by President Eisenhower but by the Congress and, I believe, by the American people generally. I pointed out that the United States Senate, by a resolution adopted with unanimity, had urged the restoration of German sovereignty so as to enable Germany to contribute to international peace and security.[1]

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[1] This special meeting of the North Atlantic Council was subsequently held in Paris, Oct. 22, 1954; see *infra*, pp. 1637–1639.

[2] Talks between Secretary Dulles and Chancellor Adenauer were held in Bonn, Sept. 16–17, 1954; see The communiqué of Sept. 17, 1954 (Department of State *Bulletin*, Sept. 27, 1954, p. 434).

[3] *Ibid.*, p. 435; see also Secretary Dulles' statements of Sept. 15 and 16, 1954 (*ibid.*, p. 434).

[4] See communiqué of Sept. 17, 1954; *ibid.*, p. 435.

[5] See communiqué of Sept. 17, 1954; *ibid.*

[6] The French National Assembly voted not to ratify the EDC treaty Aug. 30, 1954.

At Bonn we talked over all these matters. I feel confident that we can continue to count upon the Federal Republic of Germany to pursue policies of wisdom and moderation and not to close the door to the eventual realizing of the great vision of a united Europe.

At London I learned from Mr. Eden of the results of his recent trip to Brussels, Bonn, Rome, and Paris. I also informed him as to the views of the United States and the impressions which I had gained from my own visit to Bonn.

It is apparent, indeed it has long been apparent, that there is no adequate substitute for the European Defense Community. Nevertheless we must do the best that we can. Many minds are resourcefully studying what next steps are in order. We hope that sufficient preparatory work can be done during the coming week to justify a preliminary meeting of the Foreign Ministers of the countries principally concerned during the week following that.[2]

It would be a mistake to assume that any acceptable solution has been fully developed. It would be an even greater mistake to adopt a negative approach which would result in the disintegration of what has been built since the war out of the sacrifices, the efforts, the aspirations of many.

The United States is deeply concerned with the maintenance of peace and security on the European continent. European security is intimately connected with our own. We shall, therefore, continue our association with European planning to achieve those ends. There are many European leaders who retain hope of real achievement. They know that we will support them in their creative efforts.

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16. FINAL ACT OF THE LONDON NINE-POWER CONFERENCE, OCTOBER 3, 1954 [3]

The Conference of the Nine Powers, Belgium, Canada, France, [the] German Federal Republic, Italy, Luxembourg, [the] Netherlands, [the] United Kingdom of Great Britain and Northern Ireland and [the] United States met in London from Tuesday September Twenty-eighth to Sunday October Third. It dealt with the most important issues facing the Western world, security and European integration within the framework of a developing Atlantic community dedicated to peace and freedom. In this connexion the Conference considered how to assure the full association of the German Federal Republic with the West and the German defence contribution.

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[1] S. Res. 295, 83d Cong., 2d sess., approved July 30, 1954; *infra*, p. 1732.

[2] This preliminary meeting was held in London, Sept. 28–Oct. 3, 1954, the Final Act of which is printed *infra*.

[3] *London and Paris Agreements, September–October 1954* (Department of State publication 5659; 1954), pp. 9–29.

Belgium was represented by His Excellency Monsieur P–H Spaak.

Canada was represented by the Honourable L. B. Pearson.

France was represented by His Excellency Monsieur P. Mendès-France.

The Federal Republic of Germany was represented by His Excellency Dr. K. Adenauer.

Italy was represented by His Excellency Professor G. Martino.

Luxembourg was represented by His Excellency Monsieur J. Bech.

The Netherlands was represented by His Excellency J. W. Beyen.

The United Kingdom of Great Britain and Northern Ireland was represented by Rt. Hon. A. Eden, M. C., M. P.

The United States of America was represented by the Honourable J. F. Dulles.

All the decisions of the Conference formed part of one general settlement which is, directly or indirectly, of concern to all the NATO powers and which will therefore be submitted to the North Atlantic Council for information or decision.[1]

I. GERMANY

The Governments of France, the United Kingdom and the United States declare that their policy is to end the Occupation régime in the Federal Republic as soon as possible, to revoke the Occupation Statute [2] and to abolish the Allied High Commission.[3] The Three Governments will continue to discharge certain responsibilities in Germany arising out of the international situation.[4]

It is intended to conclude, and to bring into force as soon as the necessary parliamentary procedures have been completed, the appropriate instruments for these purposes. General agreement has already been reached on the content of these instruments and representatives of the Four Governments will meet in the very near future to complete the final tests.[5] The agreed arrangements may be put into effect either before or simultaneously with the arrangements for the German defence contribution.[6]

As these arrangements will take a little time to complete, the Three Governments have in the meantime issued the following Declaration of Intent:

Recognising that a great country can no longer be deprived of the rights properly belonging to a free and democratic people; and

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[1] The London Conference decisions were subsequently submitted to and approved by the North Atlantic Council at its Oct. 22, 1954, special meeting; see *infra*, pp. 1637–1639.

[2] Occupation Statute of Apr. 8, 1949; *A Decade of American Foreign Policy*, pp. 586–588.

[3] See the Charter of the Allied High Commission, June 20, 1949; *ibid.*, pp. 603–609.

[4] These responsibilities are listed in Section V of the Final Act.

[5] The Foreign Ministers of the United States, the United Kingdom, France, and the Federal Republic of Germany subsequently met in Paris, Oct. 21–23, 1954; see *supra*, pp. 483–612.

[6] The arrangements for the German defense contribution are contained in annex III to the Final Act.

Desiring to associate the Federal Republic of Germany on a footing of equality with their efforts for peace and security.

The Governments of France, the United Kingdom, the United States of America desire to end the Occupation régime as soon as possible.

The fulfilment of this policy calls for the settlement of problems of detail in order to liquidate the past and to prepare for the future, and requires the completion of appropriate Parliamentary procedures.

In the meantime, the Three Governments are instructing their High Commissioners to act forthwith in accordance with the spirit of the above policy. In particular, the High Commissioners will not use the powers which are to be relinquished unless in agreement with the Federal Government, except in the fields of disarmament and demilitarisation and in cases where the Federal Government has not been able for legal reasons to take the action or assume the obligations contemplated in the agreed arrangement.

II. BRUSSELS TREATY [1]

The Brussels Treaty will be strengthened and extended to make it a more effective focus of European integration.

For this purpose the following arrangements have been agreed upon:

(a) The German Federal Republic and Italy will be invited to accede to the Treaty,[2] suitably modified to emphasise the objective of European unity, and they have declared themselves ready to do so. The system of mutual automatic assistance in case of attack will thus be extended to the German Federal Republic and Italy.

(b) The structure of the Brussels Treaty will be re-inforced. In particular the Consultative Council provided in the Treaty will become a Council with powers of decision.

(c) The activities of the Brussels Treaty Organisation will be extended to include further important tasks as follows:

—The size and general characteristics of the German defence contribution will conform to the contribution fixed for EDC.[3]

—The maximum defence contribution to NATO of all members of the Brussels Treaty Organisation will be determined by a special agreement fixing levels which can only be increased by unanimous consent.[4]

—The strength and armaments of the internal defence forces and the police on the Continent of the countries members of the Brussels Treaty Organisation will be fixed by agreements within that Organisation having regard to their proper function and to existing levels and needs.[1]

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[1] Treaty of Mar. 17, 1948; *supra*, pp. 968–971.

[2] This invitation was effected by a declaration of the Brussels Treaty powers issued Oct. 23, 1954; *supra*, p. 972.

[3] The size of the defense contribution to be made by each member of the proposed European Defense Community was fixed by a Special Agreement of May 27, 1952, the text of which has not been made public.

[4] See article 1 of Protocol No. II of Oct. 23, 1954, to the Brussels Treaty, *supra*, p. 977.

The Brussels Treaty Powers agree to set up, as part of the Brussels Treaty Organisation, an Agency for the control of armaments on the Continent of Europe of the continental members of the Brussels Treaty Organisation.[2] The detailed provisions are as follows.

1. The functions of the Agency shall be
(a) to ensure that the prohibition of the manufacture of certain types of armaments as agreed between the Brussels Powers is being observed;
(b) to control the level of stocks held by each country on the Continent of the types of armaments mentioned in the following paragraph. This control shall extend to production and imports to the extent required to make the control of stocks effective.

2. The types of armaments to be controlled under 1 (b) above shall be
(a) weapons in categories I, II and III listed in Annex II to Article 107 of the EDC Treaty;
(b) weapons in the other categories listed in Annex II to Article 107 of the EDC Treaty.
(c) A list of major weapons taken from Annex I to the same Article to be established hereafter by an expert working group.[3]
Measures will be taken to exclude from control materials and products in the above lists for civil use.

3. As regards the weapons referred [to] under paragraph 2 (a) above when the countries which have not given up the right to produce them have passed the experimental stage and start effective production, the level of stocks that they will be allowed to hold on the Continent shall be decided by the Brussels Treaty Council by a majority vote.

4. The continental members of the Brussels Treaty Organisation agree not to build up stocks nor to produce the armaments mentioned in paragraph 2 (b) and (c) beyond the limits required (a) for the equipment of their forces, taking into account any imports including external aid, and (b) for export.

5. The requirements for their NATO forces shall be established on the basis of the results of the Annual Review and the recommendations of the NATO military authorities.

6. For forces remaining under national control, the level of stocks must correspond to the size and mission of those forces. That level shall be notified to the Agency.

7. All importations or exportations of the controlled arms will be notified to the Agency.

8. The Agency will operate through the examination and collation of statistical and budgetary data. It will undertake test checks and will

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[1] See article 5 of Protocol No. II; *supra*, p. 978.

[2] See Protocol No. IV to the Brussels Treaty; *supra*, pp. 984–989.

[3] See the Nine-Power Conference communiqué issued at Paris, Oct. 21, 1954; *infra*, doc. 18.

make such visits and inspections as may be required to fulfil its functions as defined in paragraph 1 above.

9. The basic rules of procedure for the Agency shall be laid down in a Protocol to the Brussels Treaty.[1]

10. If the Agency finds that the prohibitions are not being observed, or that the appropriate level of stocks is being exceeded, it will so inform the Brussels Council.

11. The Agency will report and be responsible to the Brussels Council, which will take its decisions by a majority vote on questions submitted by the Agency.

12. The Brussels Council will make an Annual Report on its activities concerning the control of armaments to the Delegates of the Brussels Treaty Powers to the Consultative Assembly of the Council of Europe.

13. The Governments of the U.S.A. and Canada will notify the Brussels Treaty Organisation of the military aid to be distributed to the continental members of that Organisation. The Organisation may make written observations.

14. The Brussels Council will establish a Working Group in order to study the draft directive presented by the French Government and any other papers which may be submitted on the subject of armaments production and standardisation.[2]

15. The Brussels Treaty Powers have taken note of the following Declaration of the Chancellor of the Federal Republic of Germany and record their agreement with it:

THE FEDERAL CHANCELLOR DECLARES:

that the Federal Republic undertakes not to manufacture in its territory any atomic weapons, chemical weapons or biological weapons, as detailed in paragraphs I, II and III of the attached lists;

that it undertakes further not to manufacture in its territory such weapons as those detailed in paragraphs IV, V and VI of the attached list. Any amendment to or cancellation of the substance of paragraphs IV, V and VI can, on the request of the Federal Republic, be carried out by a resolution of the Brussels Council of Ministers by a two-thirds majority, if, in accordance with the needs of the armed forces, a request is made by the competent supreme commander of NATO;

that the Federal Republic agrees to supervision by the competent authority of the Brussels Treaty Organisation to ensure that these undertakings are observed.

List Appended to the Declaration by the Federal Chancellor

This list comprises the weapons defined in paragraphs I to VI and the factories earmarked solely for their production. All apparatus, parts, equipment, installations, substances and organisms which are used for civilian purposes or for scientific, medical and industrial research in the fields of pure and applied science shall be excluded from this definition.

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[1] See Protocol No. IV to the Brussels Treaty; *supra*, pp. 984–989.

[2] This Working Group was subsequently established in Paris, Jan. 17, 1955.

I. *Atomic weapons*
Text as in Annex II paragraph I to Article 107 of the EDC Treaty with the deletion of (c).

II. *Chemical weapons*
III. *Biological weapons*
IV. *Long distance missiles, guided missiles, magnetic and influence mines*
Texts as in Annex II, paragraphs II, III, IV to Article 107 of the EDC Treaty.

V. *Warships, with the exception of smaller ships for defence purposes*
"Warships, with the exception of smaller ships for defence purposes are:
(a) Warships of more than 3,000 tons displacement.
(b) Submarines of more than 350 tons displacement.
(c) All warships which are driven by means other than steam, Diesel or petrol engines or by gas turbines or by jet engines".

VI. *Bomber aircraft for strategic purposes*

The closest possible co-operation with NATO shall be established in all fields.

III. UNITED STATES, UNITED KINGDOM, AND CANADIAN ASSURANCES

The United States Secretary of State set forth the willingness of the United States to continue its support for European unity, in accordance with the following statement.[1]

If, using the Brussels Treaty as a nucleus, it is possible to find in this new pattern a continuing hope of unity among the countries of Europe that are represented here, and if the hopes that were tied into the European Defense Community Treaty can reasonably be transferred into the arrangements which will be the outgrowth of this meeting, then I would certainly be disposed to recommend to the President that he should renew the assurance offered last spring in connection with the European Defense Community Treaty to the effect that the United States will continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to the area exists and will continue to deploy such forces in accordance with agreed North Atlantic strategy for the defense of this area.[2]

The United Kingdom confirmed its active participation in the Brussels Treaty Organisation and gave the following assurance about the maintenance of United Kingdom forces on the continent of Europe.[1]

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[1] This statement was made at the fourth plenary meeting of the London Conference, Sept. 29, 1954; for the complete text, see annex II, *infra*.

[2] For the text of the assurances given by the President of the United States to the members of the proposed European Defense Community, Apr. 15, 1954, see *supra*, pp. 1198–1200; for the text of similar assurances given to the members of the Western European Union, Mar. 10, 1955, see *supra*, pp. 989–991.

The United Kingdom will continue to maintain on the mainland of Europe, including Germany, the effective strength of the United Kingdom forces now assigned to SACEUR,[2] four divisions and the Tactical Air Force, of whatever SACEUR regards as equivalent fighting capacity. The United Kingdom undertakes not to withdraw those forces against the wishes of the majority of the Brussels Treaty Powers, who should take their decision in the knowledge of SACEUR's views.

This undertaking would be subject to the understanding that an acute overseas emergency might oblige Her Majesty's Government to omit this procedure.

If the maintenance of United Kingdom forces on the mainland of Europe throws at any time too heavy a strain on the external finances of the United Kingdom, the United Kingdom will invite the North Atlantic Council to review the financial conditions on which the formations are maintained.

Canada reaffirmed in the following statement its resolve to discharge the continuing obligations arising out of its membership in NATO and its support of the objective of European unity.[3]

As far as we are concerned, the North Atlantic Treaty Organisation remains the focal point of our participation in collective defence and of our hope for the development of closer cooperation with the other peoples of the Atlantic community. As such, it remains a foundation of Canadian foreign policy. While we emphasise, then, our belief in the North Atlantic Treaty Organisation we welcome the proposed extension of the Brussels Treaty. We shall look forward to a growing relationship, within the framework of NATO, with the new Brussels Treaty Organisation, composed of countries with whom we are already bound by such close ties.

IV. NATO

The powers present at the Conference which are members of NATO agreed to recommend at the next ministerial meeting of the North Atlantic Council that the Federal Republic of Germany should forthwith be invited to become a member.[4]

They further agreed to recommend to NATO that its machinery be reinforced in the following respects: [5]

(a) All forces of NATO countries stationed on the Continent of Europe shall be placed under the authority of SACEUR, with the exception of those which NATO has recognised or will recognise as suitable to remain under national command.

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[1] This statement was made at the fourth plenary meeting of the London Conference, Sept. 29, 1954; for the complete text, see annex II, *infra.*

[2] Supreme Allied Commander Europe.

[3] This statement was made at the fourth plenary meeting of the London Conference, Sept. 29, 1954; for the complete text, see annex II, *infra.*

[4] See the North Atlantic Council resolution of Oct. 22, 1954; *infra*, doc. 19.

[5] Cf. *ibid.*

(b) Forces placed under SACEUR on the Continent shall be deployed n accordance with NATO strategy.

(c) The location of such forces shall be determined by SACEUR after consultation and agreement with the national authorities concerned.

(d) Such forces shall not be redeployed on the Continent nor used operationally on the Continent without his consent, subject to appropriate political guidance from the North Atlantic Council.

(e) Forces placed under SACEUR on the Continent shall be interated as far as possible consistent with military efficiency.

(f) Arrangements shall be made for the closer coordination of ogistics by SACEUR.

(g) The level and effectiveness of forces placed under SACEUR on the Continent and the armaments and equipment, logistics, and eserve formations of those forces on the Continent shall be inspected by SACEUR.

The Conference recorded the view of all the governments repreented that the North Atlantic Treaty should be regarded as of ndefinite duration.[1]

V. DECLARATION BY THE GERMAN FEDERAL GOVERNMENT AND JOINT DECLARATION BY THE GOVERNMENTS OF FRANCE, UNITED KINGDOM, AND UNITED STATES OF AMERICA

The following declarations were recorded at the Conference by the German Federal Chancellor and by the Foreign Ministers of France, United Kingdom and United States of America.

Declaration by [the] German Federal Republic

The German Federal Republic has agreed to conduct its policy in accordance with the principles of the Charter of the United Nations and accepts the obligations set forth in Article 2 of the Charter.

Upon her accession to the North Atlantic Treaty and the Brussels Treaty, the German Federal Republic declares that she will refrain from any action inconsistent with the strictly defensive character of the two treaties. In particular the German Federal Republic undertakes never to have recourse to force to achieve the reunification of Germany or the modification of the present boundaries of the German ederal Republic, and to resolve by peaceful means any disputes hich may arise between the Federal Republic and other States.

Declaration by the Governments of [the] United States of America, [the] United Kingdom and France

The Governments of the United States of America, the United ingdom of Great Britain and Northern Ireland and the French epublic,

Being resolved to devote their efforts to the strengthening of peace in accordance with the Charter of the United Nations and in particular with the obligations set forth in Article 2 of the Charter.

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[1] Cf. article 13 of the North Atlantic Treaty, *supra*, p. 815.

(i) to settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered;

(ii) to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;

(iii) to give the United Nations every assistance in any action it takes in accordance with the Charter, and to refrain from giving assistance to any State against which the United Nations take preventive or enforcement action;

(iv) to ensure that States which are not Members of the United Nations act in accordance with the principles of the Charter so far as may be necessary for the maintenance of international peace and security.

Having regard to the purely defensive character of the Atlantic Alliance which is manifest in the North Atlantic Treaty, wherein they reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and undertake to settle their international disputes by peaceful means in accordance with the principles of the Charter and to refrain, in accordance with those principles, from the threat or use of force in their international relations,

Take note that the German Federal Republic has by a Declaration dated October 3rd accepted the obligations set forth in Article 2 of the Charter of the United Nations and has undertaken never to have recourse to force to achieve the reunification of Germany or the modification of the present boundaries of the German Federal Republic, and to resolve by peaceful means any disputes which may arise between the Federal Republic and other states:

DECLARE THAT

1. They consider the Government of the Federal Republic as the only German Government freely and legitimately constituted and therefore entitled to speak for Germany as the representative of the German people in international affairs.

2. In their relations with the Federal Republic they will follow the principles set out in Article 2 of the United Nations Charter.

3. A peace settlement for the whole of Germany, freely negotiated between Germany and her former enemies, which should lay the foundation of a lasting peace, remains an essential aim of their policy. The final determination of the boundaries of Germany must await such a settlement.

4. The achievement through peaceful means of a fully free and unified Germany remains a fundamental goal of their policy.

5. The security and welfare of Berlin and the maintenance of the position of the Three Powers there are regarded by the Three Powers as essential elements of the peace of the free world in the present international situation. Accordingly they will maintain armed forces

within the territory of Berlin as long as their responsibilities require it. They therefore reaffirm that they will treat any attack against Berlin from any quarter as an attack upon their forces and themselves.

6. They will regard as a threat to their own peace and safety any recourse to force which in violation of the principles of the United Nations Charter threatens the integrity and unity of the Atlantic alliance or its defensive purposes. In the event of any such action, the three Governments, for their part, will consider the offending government as having forfeited its rights to any guarantee and any military assistance provided for in the North Atlantic Treaty and its protocols. They will act in accordance with Article 4 of the North Atlantic Treaty with a view to taking other measures which may be appropriate.

7. They will invite the association of other member States of the North Atlantic Treaty Organisation with this Declaration.

VI. FUTURE PROCEDURE

The Conference agreed that representatives of the governments concerned should work out urgently the texts of detailed agreements to give effect to the principles laid down above. These will be submitted, where appropriate, to the North Atlantic Council, and to the four Governments directly concerned with the future status of the Federal Republic. The Conference hoped that it would be possible to hold a ministerial meeting of the North Atlantic Council on October 22 to decide on the arrangements affecting NATO.[1] This will be preceded by meetings of the four Foreign Ministers on the question of German sovereignty[2] and of the nine Foreign Ministers.[3]

These agreements and arrangements constitute a notable contribution to world peace. A Western Europe is now emerging which, resting on the close association of the United Kingdom with the Continent and on growing friendship between the participating countries, will re-inforce the Atlantic community. The system elaborated by the Conference will further the development of European unity and integration.

Annex I

DRAFT DECLARATION AND DRAFT PROTOCOL TO BRUSSELS TREATY

[*See declaration of October 23, 1954, inviting Italy and the German Federal Republic to accede to the Brussels Treaty* (supra, *p. 972*) *and the draft protocol to the Brussels Treaty* (London and Paris Agreements, September–October 1954; *Department of State publication 5659; 1954; pp. 19–20*).]

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[1] For the communiqué on the Oct 22, 1954, ministerial meeting of the North Atlantic Council, see *infra*, pp. 1637–1639.

[2] For the decisions reached by the Foreign Ministers of the United States, the United Kingdom, France, and the Federal Republic of Germany, meeting in Paris, Oct. 21–23, 1954, see *supra*, pp. 483–612.

[3] For the steps taken by the Foreign Ministers of the nine countries represented at the London Conference during their meeting in Paris, Oct. 21–23, 1954, see *infra*, doc., 18 and *supra*, pp. 972–989.

Annex II

STATEMENT BY THE UNITED STATES SECRETARY OF STATE (THE HON. JOHN FOSTER DULLES) AT THE FOURTH PLENARY MEETING [SEPTEMBER 29]

At the time when we thought that the European Defense Community Treaty would promptly be put to a vote of the French Parliament—that was some time last spring—the United States indicated that it would be prepared to make a declaration with respect to its intentions as to the maintenance of armed forces in Europe in the event that the European Defense Community Treaty should come into force. The text of that message [1] was communicated to the six nations that were signatory to the European Defense Community Treaty and also to the United Kingdom. The essence of that declaration was that the United States would continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while the threat to that area exists, and that we would continue to maintain such forces in accordance with the agreed North Atlantic strategy for the defense of this area. There were other provisions of that declaration. In fact, there were six, one of which related to treating the North Atlantic Treaty as a treaty of indefinite duration, rather than only for a fixed period of years.

I do not need, I think, to read the full text of that declaration, because it has, as I say, been communicated to all of the governments who are represented here. You doubtless are already familiar with, and can readily consult, the text which was sent to you at that time. That declaration was made, as I say, in anticipation of the coming into force of the European Defense Community Treaty. The declaration was made after consultation with the leaders of both parties in the Congress of the United States. It would have been as solemn and definitive an obligation as the United States is constitutionally capable of making in this matter.

I should perhaps explain that under our constitutional system the President of the United States is Commander in Chief of the Armed Forces of the United States and, as such, has the right to determine their disposition. That is a right which cannot be impaired by action of the Congress. Also, while Congress has no authority to deprive the President of his right as Commander in Chief of the Armed Forces to make such disposition of those forces as he believes to be in the interest of the security of the United States, it is equally the case that one President of the United States is not constitutionally able to bind his successors in this matter.

Each President of the United States comes into office enjoying the right to dispose of the armed forces of the United States as he thinks best serves the interests of the United States in accordance with the advice which he gets from his military advisers.

Therefore it is not constitutionally possible for the United States by treaty, by law, or in any other way to make a legally binding, fixed commitment to maintain any predetermined quota of armed forces in any particular part of the world for any particular period of time.

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[1] Message of Apr. 15, 1954; *supra*, pp. 1198–1200.

It is nevertheless possible for the President to define a policy which in his opinion makes it appropriate to maintain certain elements of the armed forces of the United States in certain areas in pursuance of that policy. And if the policy is a basic and fundamental one, it is extremely unlikely that that allocation of forces would be altered. Now, this declaration that I refer to was designed to involve an exercise, to the fullest degree possible under our constitutional system, of the determination of our Government to support the European Defense Community by contributing armed forces which would be subject to integration with its forces, and that declaration was made with the confidence that the policy that it reflected would be pursued because of the very great interest which the United States has in the creation of unity in Europe, and the fact that our Nation has historically shown its willingness to make tremendous contributions if, in its opinion, that will aid in the real unification of Europe.

I might recall that the European Recovery Plan—the Marshall plan as it was called—was made pursuant to a congressional act which said that the purpose was to promote the unification of Europe.[1] The North Atlantic Treaty was an engagement which was quite unprecedented for the United States. It was quite unprecedented for the United States to make that kind of long-range alliance with other countries. That was directly contrary to our earlier policies which had been pursued for over 100 years. That action was taken only after the European countries themselves had first come together under this Brussels Treaty which we are talking about so much today. It was the encouragement which comes from that which very largely led to our going on and joining in the commitments of the North Atlantic Treaty.

The first action taken to provide military aid to Europe was under the Military [Mutual] Defense Assistance Act of 1949.[2] The language of it was that it was designed to promote the integration of the defense of Europe. I think that the history of our action, both our positive action and negative action, shows that we respond in many ways like a barometer to the climate which exists in Europe. If the climate is one of unity and cohesion, our assistance and aid of every kind goes out. If the climate is one of dissension, disunity, revival of threats of war, perpetuation of the cycle of recurrent war, then our tendency is to withdraw. The declaration which we felt able to make in support of the European Defense Community was on the assumption that that was a permanent act which would tie together organically the countries of Europe which in the past have been separate and among whom war has been bred. We felt that it tied them together so permanently, so organically, that we could regard that old chapter as a closed chapter and could hopefully commit our strength to Europe in the confidence that our soldiers over here in Europe would be in a structure which was safe and sound, that we were not putting our troops in the midst of what has historically been the world's worst fire hazard.

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[1] See section 102 (a), "Findings and Declaration of Policy," of title I of the Economic Cooperation Act of 1948 (PL 472, 80th Cong., 2d sess., approved Apr. 3, 1948; 62 Stat. 137); *A Decade of American Foreign Policy*, pp. 1299–1300.

[2] *Ibid.*, pp. 1356–1364.

Now, a committal of that character is not lightly made, and I would say in all frankness that as the situation stands today it would not be possible for the President of the United States to renew that committal. There has been a great wave of disillusionment which has swept over the United States, and it is particularly manifest in the Congress—a great wave of disillusionment over what has happened, and a feeling that, after all, the situation in Europe is pretty hopeless and the United States had better not make any long-term committals to be part of it.

That conclusion is so disastrous in my opinion both for the nations of Europe and for the United States that I hope most ardently that what is done here will make it possible to come to a different conclusion, and that it will change the atmosphere, the feeling, in the United States to a degree which will permit of a renewal of the pledge by the United States to maintain in Europe such elements of its armed forces as may be necessary or appropriate to contribute our fair share of what is needed for the common defense of this North Atlantic area while the threat to that area exists. I cannot say at this moment that a renewal of that commitment is possible. I can say, and must repeat, that, as things stand today, it is not possible. But if, out of the elements of the situation with which we are dealing—if, using the Brussels Treaty as a nucleus, it is possible to find in this new pattern a continuing hope of unity among the countries of Europe that are represented here, and if the hopes that were tied into the European Defense Community Treaty can reasonably be transferred into the arrangements which will be the outgrowth of this meeting, then I would certainly be disposed to recommend to the President that he should renew a pledge comparable to that which was offered in connection with the European Defense Community Treaty.

Obviously the context of the pledge would have to be changed, because in the form in which it was given it related distinctively to the European Defense Community Treaty.

Just what rephrasing would be required to give it the new look that would be appropriate to the new situation, that is a matter which I have not studied and which could not usefully be studied until we know whether or not a promise of genuine and durable unity will come out of the deliberations of this gathering and those which may succeed it.

That, Mr. Chairman, is as clear a statement as I can make today of the position of my Government in relation to this matter. We are extremely anxious to contribute all that we can from a material and constitutional standpoint to promote the kind of unification which will above all end a situation which has led to recurrent wars which have weakened and drained the Western nations so that our whole Western civilization is in jeopardy as never before in a thousand years.

In reason you can count on us. I think that what we have done since the end of the war in terms of economic contribution, military contributions, the willingness to contribute our best and ablest brains in terms of both military and economic matters, all of that I think is a proof which cannot be challenged as to what our disposition is in this matter. You can be confident that that disposition will be reflected by genuine support to the extent that is appropriate if there is, on this side, the movement toward unity, if there is a beacon light still ahead, if we do not feel that we have come to a watershed where efforts toward unity finally are ended and we are going down on the other side into the abyss of continuing disunity. I do not think that is going to happen. If it does not happen, then you can count on the United States' acting in support of what the European countries do. I believe that you will find that the American flag, with all it symbolizes, will continue to fly alongside of your own here in Europe.

STATEMENT BY THE UNITED KINGDOM SECRETARY OF STATE (THE RT. HON. ANTHONY EDEN, M. P.) AT THE FOURTH PLENARY MEETING [SEPTEMBER 29]

Gentlemen, I think we all feel that we have just listened to a statement from the United States Secretary of State of very rare quality and much valued frankness. What he has said to us, those of us who are European, is I think all that in present conditions we could possibly expect from the United States.

As we survey these post-war years we, I fear, too readily at times take for granted what this generous brother has done for us in Europe at a time when but for his help all must have collapsed in confusion and, perhaps, into communism also. On behalf of the country I represent here, I would like to assure him that what the United States has done are not—"All good deeds past, forgot as soon as done"—but will be remembered with thankfulness, and not for our own sakes alone. So I would like to tell Mr. Foster Dulles that the words he has said, so far as our Government are concerned, will be examined with gratitude and with understanding, and that we shall do our best—I believe this conference will do its best—to prove worthy of that greater confidence the United States will show as we establish our ability to prove our unity and our strength.

Now in all this I am conscious that my own country has a part to play. I do not want to go back over the full history of past declarations and past undertakings, though there are perhaps one or two that I ought to mention if the setting of what I want to say this afternoon is to be understood. We gave, as the United States Government gave, a series of undertakings to the EDC.[1] We gave them by treaty, we gave them by agreement, we gave them by declarations, and, as I have already informed my colleagues, we stand by those undertakings and we are ready to reaffirm them. They are not, I think, unimportant, but some of them are, it is true, inapplicable in the absence of EDC. Some of those that have as a result of the disappearance of EDC now disappeared may, and probably will, be covered by the proposals which this conference is now considering. The provision of automatic military assistance, for instance, which was contained in our treaty with EDC will be reproduced, I trust, by the proposed enlargement of the Brussels Treaty. Cooperation between the armed forces; the deployment and integration of those forces; consultation about the level of forces, will all now take place, though perhaps within a different framework.

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[1] See the treaty of May 27, 1952, between the United Kingdom and the members of the proposed European Defense Community (*supra*, pp. 1172–1173), the tripartite (U.S.–U.K.–French) declaration of the same date (*supra*, pp. 1197–1198), the association agreement of Apr. 13, 1954, between the United Kingdom and the members of the proposed European Defense Community (Annex A, *Memorandum Regarding United Kingdom Association with the European Defence Community;* Cmd. 9126; 1954), and the "Statement of Common Policy on Military Association between the Forces of the United Kingdom and the European Defence Community" of the same date (Annex B, *ibid.;* also, Department of State *Bulletin*, Apr. 26, 1954, pp. 620–621).

I am very conscious, and so are my colleagues, that there is one particular plane on which many of you here would wish us to make our position clearer, and where, if we were able to do so, it might assist the work of this conference. This relates to the maintenance of British forces on the continent of Europe, and in respect of that I have a new proposal to put to my colleagues. The United Kingdom will continue to maintain on the mainland of Europe, including Germany, the effective strength of the United Kingdom forces which are now assigned to SACEUR—four divisions and the tactical Air Force—or whatever SACEUR regards as equivalent fighting capacity.

The United Kingdom undertakes not to withdraw those forces against the wishes of the majority of the Brussels Treaty Powers, who should take their decision in the knowledge of SACEUR's views. This undertaking would be subject to the understanding that an acute overseas emergency might oblige Her Majesty's Government to omit this procedure. If maintenance of the United Kingdom forces on the mainland of Europe throws at any time too heavy a strain on the external finances of the United Kingdom, then we would invite the North Atlantic Council to review the financial conditions on which the formations are maintained.

My colleagues will realise that what I have announced is for us a very formidable step to take. You all know that ours is above all an island story. We are still an island people in thought and tradition, whatever the modern facts of weapons and strategy may compel. And it has been not without considerable reflection that the Government which I represent here has decided that this statement could be made to you this afternoon. I want only to add this: we are making it in just the same spirit as Mr. Dulles spoke just now, because we hope that by doing so we shall make a contribution to enable this conference to succeed, and recreate confidence on this European continent, and make it possible for us to show an example of unity to the world. Of course, you will understand that what we have just said, and the undertaking we are prepared to give, does depend on the outcome of our work. If we succeed here, then this undertaking stands; if we do not, H. M. Goverment could not regard itself as committed to what I have said this afternoon. That applies to the whole of our work, all the work that we are doing here. So I can only conclude by saying

I hope the conference will consider that what we have said will be a contribution to bring us at least a stage nearer the successful conclusion of our labours.

STATEMENT BY THE CANADIAN MINISTER FOR EXTERNAL AFFAIRS (THE HON. LESTER PEARSON) AT THE FOURTH PLENARY MEETING [SEPTEMBER 29]

Mr. Chairman, this item on the agenda, which I apologise for returning to—item 5—is headed "United Kingdom and United States Declarations." I assume that under it I would be quite in order in expressing great appreciation for the statements which have been made by you and by Mr. Dulles this afternoon, and I hope I would not be ruled out of order if I make a short declaration on behalf of my own country.

Your statement, Mr. Chairman, if I may say so, was one of historic importance. If it is thought, as it sometimes is, that the United Kingdom looks across the Channel more intensely in war than in peacetime, that feeling certainly must have been removed by your statement earlier this afternoon. To me it was all the more impressive because I recognise that the source of the power and the glory of this island has been its vision across the seas.

The statement of Mr. Dulles was also important, not only for the development of European unity but for that larger Atlantic Community development with which we are all concerned. Indeed, as I see it, European unity cannot be effectively secured unless the lines not only across the Channel but across the Atlantic are strong and unbroken. My country has a part to play in this Atlantic aspect of the problem. Therefore, we accept the continuing obligations arising out of our membership of the North Atlantic Treaty Organization, and we are resolved to continue to do our best to discharge them. The disappearance of EDC does not, we think, affect those obligations, because EDC—though we were indeed disappointed in its disappearance—because EDC, as we saw it, was a means to an end and not an end in itself. We are here to find an alternative method to accomplish the same purpose. That alternative method, that alternative arrangement, must include the association of Germany not only with the defence of Europe and the West, but—and this is, I am sure, equally important—with the development of the Atlantic Community; an association to be brought about in such a way that the fears that we have inherited from the unhappy past will be replaced by a new and better hope for the future.

So new methods are being discussed this week and new solutions are being sought. As far as we are concerned, however, the North Atlantic Treaty Organization remains the focal point of our participation in collective defence and of our hope for the development of closer co-operation with the other peoples of the Atlantic Community. As such, it remains a foundation of Canadian foreign policy. Indeed, enduring and whole-hearted support for NATO is for us a policy above politics on which I think our friends can rely.

That support in defence matters is now worked out each year by consultation through the appropriate agencies of our organization—that is, NATO. Apart from mutual aid, it now takes the form of naval forces, an infantry brigade group, an air division of 12 jet fighter squadrons stationed in Europe. We will continue to assist in the common defence through the existing NATO procedures until better ones are agreed on. The presence of these Canadian forces on the European continent is not only a measure of our military contribution to the common defence but an evidence of our belief in the future of the North Atlantic Community.

While we emphasize, then, our belief in the North Atlantic Treaty Organization, we welcome the proposed extension of the Brussels Treaty. We shall look forward to a growing relationship within the framework of NATO to the Brussels Treaty countries with whom we are bound by such close ties.

We are sure, and I hope our confidence will be realized—I know it will—that these new arrangements through Brussels can be developed without weakening or diminishing NATO in any way in its essential functions, because NATO, with Germany associated with it under agreed arrangements, should, we think, be a stronger force than ever against war, and for the progressive development of the Atlantic Community.

We are also certain, Mr. Chairman, that in this development the United States, which has played such a magnificent, generous, and indeed essential part, will continue to be able to do so. Mr. Dulles has given us hope in that regard this afternoon.

We Canadians, being neighbours of the United States, know as well as anybody else that that country does not fail to accept and to meet, successfully, any great international challenge which faces it. We are certain that in the days ahead it will continue to meet the challenge of assisting in the development of European unity and the Atlantic Community—and the two go together.

The work, then, which we are doing this week must, in order to succeed, make possible the continued contribution of the United States to these great objectives. If that is done, and I know it is going to be done, it will also, I assure you, make it much easier for my own country to continue to do its share.

Annex III

CONFERENCE PAPER ON A GERMAN DEFENCE CONTRIBUTION AND ARRANGEMENTS TO APPLY TO SACEUR'S FORCES ON THE CONTINENT

The nine Governments represented at the London Conference agree to instruct representatives to draw up in Paris, in concert with the military and civilian agencies of NATO through the Secretary General, detailed proposals, for approval by the North Atlantic Council, for a German defence contribution and arrangements to be applied to SACEUR's forces on the Continent. These detailed proposals shall be based on the following principles agreed between the nine Governments:

1. (a) The seven Brussels Treaty Powers will conclude a special agreement setting out the forces each of them will place under SACEUR on the Continent.[1]

(b) The German contribution shall conform in size and general characteristics to the contribution fixed for the EDC[2] brought up to date and adapted as necessary to make it suitable for NATO.

(c) The terms of this special agreement will be agreed with the other NATO countries.

(d) If at any time the NATO Annual Review recommends an increase above the figures in the Brussels Special Agreement such increase will require the unanimous approval of the Brussels Powers expressed in the Brussels Council or in NATO.

(e) The Brussels Powers will ask that arrangements be made for SACEUR to designate a high-ranking officer who will be instructed to transmit regularly to the Brussels Treaty Organisation information acquired as indicated in 3 (f) below in order to permit that Organisation to establish that the figures agreed among the Brussels Powers are being observed.

2. All forces of NATO countries stationed on the Continent of Europe shall be placed under the authority of SACEUR, with the exception of the forces which NATO has recognised or will recognise as suitable to remain under national command. The strength and armaments on the Continent of the internal defence forces and of the police belonging to the members of the Brussels Treaty Organisation shall be fixed by agreements made within this Organisation, taking into account the task for which they are intended and on the basis of existing levels and needs.[3]

3. Arrangements to apply to SACEUR's forces:

(a) Forces placed under SACEUR on the Continent shall be deployed in accordance with NATO strategy.

(b) The location of such forces shall be determined by SACEUR after consultation and agreement with the national authorities concerned.

(c) Such forces shall not be redeployed on the Continent nor used operationally on the Continent without his consent subject to appropriate political guidance from the North Atlantic Council.

(d) Forces placed under SACEUR on the Continent shall be integrated as far as possible consistent with military efficiency.

(e) Arrangements shall be made for the closer co-ordination of logistics by SACEUR.

(f) The level and effectiveness of forces placed under SACEUR on the Continent and the armaments, equipment, logistics and reserve formations of those forces on the Continent shall be inspected by SACEUR.

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[1] See Protocol No. II to the Brussels Treaty; *supra*, pp. 977–979.

[2] The defense contributions of each of the members of the proposed European Defense Community were fixed by a Special Agreement signed at Paris, May 27, 1952, the text of which has not been made public.

[3] See article 5 of Protocol No. II to the Brussels Treaty; *supra*, p. 978.

17. STATEMENT BY THE SECRETARY OF STATE ON THE RESULTS OF THE LONDON CONFERENCE, OCTOBER 4, 1954 [1]

The London Conference produced solid results. It worked out a system, in place of the European Defense Community, which can preserve and strengthen the Atlantic community by giving it a hard core of European unity. Thus, it salvages many of the values of the EDC plan and will give opportunity for the other values to be achieved by further effort. The fact that all of this was done, and done within 33 days of the rejection of EDC,[2] shows the vitality of the Atlantic community. Under this new plan:

German sovereignty will be restored, and beginning today the Allied High Commissioners will forego the exercise of most of their occupation rights.[3]

Germany will join NATO and make its indispensable contribution to the defense of the West. This will be done within a continental system of armament controls.

Western unity will be developed within the framework of the Brussels Treaty. The treaty members will become identical with the projected membership of EDC, the United Kingdom being an additional member. Their Council will have broad authority and can act in many important matters by a majority vote. Thus national authority gives way to European authority.

The United Kingdom has made a momentous long-term commitment of its military forces to the continent of Europe.[4]

Much of what was agreed on will, of course, require further approvals by other nations and by parliaments.

When I went to London I said that the initiative rested with the European powers.[5] They had exercised that initiative.

The result is what the Europeans decided on for themselves. The United States will, I hope, cooperate with the result, because to do so will be very much in our national interests.

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18. COMMUNIQUÉ ISSUED AT PARIS BY THE FOREIGN MINISTERS OF THE NINE POWERS, OCTOBER 21, 1954 [6]

The Foreign Ministers of Belgium, Canada, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, the United Kingdom and the United States of America (M. Spaak, Mr. Pearson,

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[1] This statement was made by Secretary Dulles at the Washington National Airport on his return from the London Conference; Department of State *Bulletin*, Oct. 11, 1954, p. 519.

[2] The French National Assembly voted against ratification of the Treaty Establishing the European Defense Community, Aug. 30, 1954.

[3] See Section I, "Germany," of the Final Act of the London Conference, *supra*.

[4] See annex II to the London Conference Final Act, *supra*.

[5] See Secretary Dulles' statement of Sept. 25, 1954; Department of State *Bulletin*, Oct. 4, 1954, p. 489.

[6] *Ibid.*, Nov. 1, 1954, p. 638.

M. Mendès-France, Dr. Adenauer, M. Martino, M. Bech, M. Beyen, Sir Anthony Eden and Mr. Foster Dulles) met in Paris on October 21st to complete the discussions begun at the recent London conference on security and European integration within the framework of a developing Atlantic community dedicated to peace and freedom.[1]

The Ministers were informed of the agreement reached between the Foreign Ministers of France, the German Federal Republic, the United Kingdom and the United States of America in regard to ending the occupation regime in the Federal Republic.[2]

The nine Ministers then considered the reports of the working parties set up in Paris and London to give effect to the principles agreed at the London conference. They reached agreement on the text of four protocols strengthening and extending the scope of the Brussels Treaty Organization, expanded to provide for the participation of Italy and of the German Federal Republic, and on the text of accompanying documents.[3]

They agreed that the London working group consisting of representatives of Belgium, France, the German Federal Republic, Italy, Luxembourg, the Netherlands and the United Kingdom should remain in being during the interim period before the formal accession of the German Federal Republic and Italy to the Brussels Treaty Organization.

The Ministers expressed to the secretaries general of the North Atlantic Treaty Organization and of the Brussels Treaty Organization, who were invited to be present at the meeting, their thanks for the valuable preparatory work done in the two organizations between the London and Paris conferences and for the facilities placed at their disposal by NATO for their meetings in Paris.

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19. RESOLUTION OF THE NORTH ATLANTIC COUNCIL, OCTOBER 22, 1954 [4]

Resolution to Implement Section IV of the Final Act of the London Conference Concerning the Powers of the Supreme Allied Commander, Europe

THE NORTH ATLANTIC COUNCIL:

1. *Recognising* the necessity of strengthening the structure of the North Atlantic Treaty Organization and of reinforcing the machinery for the collective defence of Europe, and desirous of specifying the conditions governing joint examination of the defence effort of member countries,

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[1] See the Final Act of the London Conference, Oct. 3, 1954; *supra*, doc. 16.

[2] Agreement of Oct. 23, 1954; *supra*, pp 483–485.

[3] See *supra*, pp. 972–989.

[4] *London and Paris Agreements, September-October 1954* (Department of State publication 5659; 1954), pp. 32–35.

2. *Recalls* that:

(a) the resources which member nations intend to devote to their defence effort as well as the level, composition and quality of the forces which the member nations are contributing to the defence of the North Atlantic area are each year subject to collective examination in the NATO Annual Review for the purpose of reaching agreement on force goals, taking into account expected mutual aid;

(b) the defence expenditures incurred by the member nations and the extent to which the recommendations emerging from the Annual Review have been carried out are the subject of periodical review during the year.

3. *Agrees* with the terms of the Agreement on Forces of Western European Union;[1] and that with respect to the forces which the members of Western European Union will place under NATO Command on the mainland of Europe and for which maximum figures have been established in that Agreement, if at any time during the NATO Annual Review recommendations are put forward, the effect of which would be to increase the level of forces above the limits established in this Agreement, the acceptance by the country concerned of such recommended increases shall be subject to unanimous approval by the members of Western European Union, expressed either in the Council of Western European Union or in the North Atlantic Treaty Organization.

4. *Decides* that all forces of member nations stationed in the area of the Allied Command Europe shall be placed under the authority of the Supreme Allied Commander Europe or other appropriate NATO Command and under the direction of the NATO military authorities with the exception of those forces intended for the defence of overseas territories and other forces which the North Atlantic Treaty Organization has recognised or will recognise as suitable to remain under national command.

5. *Invites* member nations to make an initial report for consideration and recognition by the Council on those forces which they plan to maintain within the area of Allied Command Europe for the common defence, but not to place under the authority of the North Atlantic Treaty Organization, taking into account the provisions of relevant NATO directives bearing on that subject; the initial report will include a broad statement of the reason for which the above forces are not so placed. Thereafter, if any changes are proposed, the North Atlantic Council action on the NATO Annual Review will constitute recognition as to the suitability and size of forces to be placed under the authority of the appropriate NATO Command and those to be retained under national command.

6. *Notes* that the agreements concluded within the framework of the Organization of Western European Union on the internal defence and police forces which the members of that Organization will maintain on the mainland[2] shall be notified to the North Atlantic Council.

7. *Agrees*, in the interest of most effective collective defence, that

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[1] Protocol No. II of Oct. 23, 1954, to the Brussels Treaty, *supra*, pp. 977–979.

[2] See article 5 of this protocol *supra*, p. 978.

in respect of combat forces in the area of Allied Command Europe and under the Supreme Allied Commander Europe;

(a) all deployments shall be in accordance with NATO strategy;

(b) the location of forces in accordance with NATO operational plans shall be determined by the Supreme Allied Commander Europe after consultation and agreement with the national authorities concerned;

(c) forces under the Supreme Allied Commander Europe and within the area of Allied Command Europe shall not be redeployed or used operationally within that area without the consent of the Supreme Allied Commander Europe, subject to political guidance furnished by the North Atlantic Council, when appropriate, through normal channels.

8. *Decides That:*

(a) integration of forces at Army Group and Tactical Air Force level shall be maintained;

(b) in view of the powerful combat support units and logistic support organization at Army level, integration at that level and associated Air Force level will be the rule, wherever formations of several nationalities are operating in the same area and on a common task, provided there are no overriding objections from the point of view of military effectiveness;

(c) wherever military efficiency permits, in light of the size, location and logistic support of forces, integration at lower levels, both in the land and air forces, shall be achieved to the maximum extent possible;

(d) proposals to the North Atlantic Council, indicating any increases in commonly financed items of expenditure, such as infrastructure which might be entailed by the adoption of such measures, should be submitted by the NATO military authorities.

9. *Agrees* that, in order to improve the capability of the Supreme Allied Commander Europe to discharge his responsibilities in the defence of Allied Command Europe, his responsibilities and powers for the logistic support of the forces placed under his authority shall be extended.

10. *Considers* that these increased responsibilities and powers should include authority:

(a) to establish, in consultation with the national authorities concerned, requirements for the provision of logistic resources;[1]

(b) to determine, in agreement with the national authorities concerned, their geographic distribution;

(c) to establish, in consultation with these authorities, logistic priorities for the raising, equipping and maintenance of units;

(d) to direct the utilisation, for meeting his requirements, of those portions of the logistic support systems made available to him by the appropriate authorities;

(e) to co-ordinate and supervise the use, for logistical purposes, of NATO common infrastructure facilities and of those national facilities made available to him by the national authorities.

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[1] By logistic resources should be understood all the matériel, supplies, installations and parts thereof necessary for the prolonged conduct of combat operations. [Footnote in original.]

11. *Agrees* that, in order to ensure that adequate information is obtained and made available to the appropriate authorities about the forces placed under the Supreme Allied Commander Europe including reserve formations and their logistic support within the area of Allied Command Europe, the Supreme Allied Commander Europe shall be granted increased authority to call for reports regarding the level and effectiveness of such forces and their armaments, equipment and supplies as well as the organization and location of their logistic arrangements. He shall also make field inspections within that area as necessary.

12. *Invites* nations to submit to the Supreme Allied Commander Europe such reports to this end as he may call for from time to time; and to assist inspection within the area of Allied Command Europe by the Supreme Allied Commander Europe of these forces and their logistic support arrangements as necessary.

13. *Confirms* that the powers exercised by the Supreme Allied Commander Europe in peacetime extend not only to the organization into an effective integrated force of the forces placed under him but also to their training; that in this field, the Supreme Allied Commander Europe has direct control over the higher training of all national forces assigned to his command in peacetime; and that he should receive facilities from member nations to inspect the training of those cadre and other forces within the area of Allied Command Europe earmarked for that Command.

14. *Directs* the NATO military authorities to arrange for the designation by the Supreme Allied Commander Europe of a highranking officer of his Command who will be authorised to transmit regularly to the Council of Western European Union information relating to the forces of the members of Western European Union on the mainland of Europe acquired as a result of the reports and inspections mentioned in paragraphs 11 and 12 in order to enable that Council to establish that the limits laid down in the special agreement mentioned in paragraph 3 above are being observed.

15. *Agrees* that the expression "the area of Allied Command Europe" as used throughout this Resolution shall not include North Africa; and that this Resolution does not alter the present status of the United Kingdom and United States forces in the Mediterranean.

16. *Directs* the NATO Military Committee to intiate the necessary changes in the directives to give effect to the above policies and objectives of the North Atlantic Council.

[THE PARIS CONFERENCE: Report by the Secretary of State to the President and the Cabinet, October 25, 1954][1]

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[1] Broadcast to the Nation over radio and television; *Report to the President and the Cabinet at the White House—October 25, 1954* (Department of State publication, Series S, No. 25; 1954).

20. STATEMENT BY THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEE ON FOREIGN RELATIONS, MARCH 29, 1955[1]

The documents before your committee will, when operative, lay the basis for a new Europe.[2] They can bring about a unity and security in Europe for which the United States has long hoped and in pursuit of which our Nation has made great sacrifices.

The two world wars of this century made it evident that Western civilization cannot survive if the nations of Western Europe continue to fight each other. Already they have expended so much blood and treasure in their wars that they have gravely depleted their strength. In consequence, Western civilization, with its dedication to human liberty and dignity, can now be seriously challenged by an atheistic system which treats human beings as animated bits of matter to be ordered into conformity by despotic rulers.

Western Europe, long the cradle of Western civilization and of Christianity, has now what is probably its last chance to survive as a place of human welfare. That last chance is embodied in the documents before you.

These documents will produce the following concrete results:

(1) They will restore sovereignty to the Federal Republic of Germany—sovereignty which, taken away when Germany surrendered almost exactly 10 years ago, cannot any longer be justifiably withheld;

(2) They will forge a lasting unity of seven Western European nations—Belgium, France, Germany, Italy, Luxembourg, the Netherlands, and the United Kingdom—under the Brussels Treaty of 1948, amended and enlarged to make it a treaty for Western European Union;

(3) They will inaugurate a system of military limitations and controls which will provide substantial insurance against militarization;

(4) They will bring the Federal Republic of Germany into the North Atlantic Treaty, thus adding an essential element of strength and making possible an effective defense of Western Europe through implementation of a forward strategy;

(5) They will assure, through action of the North Atlantic Treaty Council, a close integration of the armed forces in Europe of the member countries, thereby giving assurance that these forces cannot be used for nationalistic aggression or otherwise than for the security purposes envisioned by the treaty.

The sum total of the foregoing is a Western Europe which will have a large measure of unity and of controlled strength and which, through that unity and strength, can contribute mightily to its own welfare and to that of others.

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[1] Department of State *Bulletin*, Apr. 11, 1955, pp. 605–609.

[2] The Secretary was testifying concerning S. Execs. L and M, 83d Cong., 2d sess.

EDC CONCEPT

You will recall that it was originally sought to establish a European Defense Community consisting of six continental countries—Belgium, France, Germany, Italy, Luxembourg, and the Netherlands. This had been proposed in 1950 by the French Minister of Defense,[1] and after long negotiation it resulted in 1952 in three treaties—a treaty to create the European Defense Community;[2] a convention (often called the Bonn Convention) to restore sovereignty to the Federal Republic of Germany;[3] and a protocol to extend the North Atlantic Treaty area to include Western Germany.[4] The United States was a party to the two last-named treaties, and in July 1952 the Senate gave its advice and consent to their ratification. However, this action by the United States came to naught because the treaty to create the European Defense Community was rejected by the French Assembly on August 30, 1954.

In vigilant anticipation of that possibility, the United States Senate, on July 30, 1954, by a vote of 88 to 0 had adopted a resolution which expressed the wish of the Senate "to restore sovereignty to Germany and to enable her to contribute to the maintenance of international peace and security."[5] The President was asked to act accordingly.

This cooperation between the Executive and the Senate and the unanimous participation therein by the Senate put the President, and me on his behalf, in a position to deal effectively with the grave situation which resulted when, 30 days later, the European Defense Community was finally rejected.

The European Defense Community was a European concept designed to deal with a European problem. It was thus preferable that the initiative in finding a substitute should come from the European countries. Fortunately, that initiative was not lacking. Mr. Eden, now Sir Anthony Eden, the British Foreign Minister, consulted with the governments which had signed the EDC Treaty in an effort to discover whether the Brussels Pact of 1948 might provide the framework for substitute arrangements. At the same time I flew to Europe to consult with Chancellor Adenauer and with Mr. Eden.[6] Although Mr. Eden's consultations were not conclusive, the prospects warranted convening a conference of the governments most directly concerned. Accordingly, the six signatories of the EDC Treaty, plus the United Kingdom, the United States, and Canada, met in London in late September 1954.

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[1] M. Pleven's proposals were set forth in an address in the French National Assembly, Oct. 24, 1950; *Documents on International Affairs, 1949–1950* (London, 1953), pp. 339–344.

[2] Treaty of May 27, 1952; *supra*, pp. 1107–1150.

[3] Convention of May 26, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

[4] Protocol of May 27, 1952; *ibid.*, pp. 23–24.

[5] *Infra*, p. 1732.

[6] For the communiqué issued at Bonn, Sept. 17, 1954, on Secretary Dulles' talks with Chancellor Adenauer, see the Department of State *Bulletin*, Sept. 27, 1954, p. 434. The communiqué issued at London on the same date on Secretary Dulles' talks with the British Foreign Secretary appears *ibid.*

London Conference

The principal task of the London conference was to find an acceptable basis for German association with the free nations of the West and for a German contribution to Western defense. Under the 1952 agreements, the Federal Republic was to be associated with NATO only indirectly through membership in the EDC. At London we decided to seek full German membership in NATO.[1] However, this needed to be supplemented by some reproduction of those aspects of EDC which removed the field of armament from exclusively national competence. This was achieved by enlarging the five-power Brussels Pact organization to include the German Federal Republic and Italy and giving that organization control of the armaments of the continental European members.[2]

It was essential that these controls should not interfere with the creation of adequate defensive forces by NATO. So at London we agreed that the level of peacetime contributions by the various members of the Brussels Pact to the forces under the NATO Supreme Commander, Europe (SACEUR) should, within certain agreed limitations, be worked out in NATO. The Brussels Pact nations in turn agreed not to maintain on the European Continent peacetime armaments in excess of those required for the forces they would contribute to NATO for its defensive purposes, plus their police forces, which were also subject to limitation by the Council of Western European Union. They also agreed to establish machinery for verifying these levels of armaments and for dealing with infractions of the levels. Furthermore, it was envisaged that the political and economic functions of the Brussels Treaty Organization would be strengthened, thus providing a broad basis for closer cooperation among the member countries.

The acceptance of these arrangements was greatly facilitated by additional commitments made by the Federal Republic and by the United Kingdom. The Federal Republic undertook voluntarily to forego the right to manufacture weapons of mass destruction—atomic, biological, and chemical—and not to manufacture guided missiles, larger warships and submarines, and strategic bombers, except upon request of SACEUR and with the agreement of the Brussels Treaty Council acting by a two-thirds vote.[3]

The British Government undertook to maintain on the European Continent ground and airforce units equivalent to those now assigned to SACEUR and not to withdraw them against the wishes of the majority of the Brussels Treaty powers.[4] This British commitment constituted an historic departure from traditional British policy.

Finally, it was agreed by the United States, the United Kingdom, France, and the Federal Republic that the occupation regime in Western Germany would be brought to an end by the Bonn Convention, amended to take account of developments since it was made in 1952.[1]

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[1] See Part IV of the Final Act of the London Conference, Oct. 3, 1954; *supra* doc. 16.

[2] See Part II of the Final Act of the London Conference.

[3] *Ibid.*

[4] See Part III of the Final Act and Annex II.

The agreements in principle reached at the London conference then had to be developed in detail and drawn up in appropriate formal instruments. A further conference was, therefore, convened in Paris in late October to review the new texts and to sign them. They were, in fact, signed in Paris on October 23.

THE SAAR

At the same time, a Franco-German agreement on the Saar was signed.[2] The French Government had long considered it essential that such an agreement be part of the overall arrangements regarding German relations with the West. Discussion on this subject had been proceeding for several years. But it was only on the last day of our meetings at Paris that agreement was finally reached between Chancellor Adenauer and President Mendès-France. The agreement provides that, pending the conclusion of a peace treaty with Germany, the Saar will be given a European status. A European commissioner, responsible to the Council of Ministers of the Western European Union, will supervise the carrying out of the agreement and will be in charge of foreign affairs and defense matters.

The monetary and customs union between France and the Saar will continue. But Germany will eventually be given a position in trade matters similar to that of France. The arrangements are subject to the approval of the Saar population, to whom the agreement will be submitted in a referendum. The agreement contains provisions designed to insure that the referendum will afford an opportunity for a free expression of the views of the Saarlanders.

The French Government and the German Federal Government have agreed to ask the United States and the United Kingdom to give assurances respecting the Saar agreement. These assurances would be expressions of intention, indicating our general willingness to support the arrangements to which I have referred. No treaty obligations would be involved on our part.

The Saar arrangement is one of the most important byproducts of the plan for Western European Union. Like the Trieste settlement, it gives promise of disposing in amity of an age-old, explosive source of trouble.

U. S. POSITION

All of the documents signed at Paris are now before the Senate for its information. Most of these either do not involve the United States as a party or are purely administrative in character. But two treaties do call for the Senate's advice and consent to ratification. These are the protocol amending the Bonn Convention, restoring sovereignty to the Federal Republic of Germany,[3] and the protocol admitting the Federal Republic of Germany to the North Atlantic Treaty.[1]

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[1] See Part I of the Final Act; *supra,* doc. 16.

[2] *Documents on American Foreign Relations, 1954* (New York, 1955), pp. 174–179.

[3] *Supra,* pp. 483–485.

The arrangements expressed in these two treaties involve substantially the same obligations on the part of the United States as those which the Senate accepted in 1952 in terms of the original Bonn Convention[2] and the NATO extension protocol.[3]

The revisions of the Bonn Convention are for the purpose of bringing it up to date and expressing more fully the status of equality being accorded to the Federal Republic. The obligations of the United States are not enlarged.

The existing rights of the Allied Powers with respect to Berlin and Germany as a whole—that is, our status vis-a-vis the Soviet Union—are maintained as under the original conventions. We also retain our right to station forces in Germany, in agreement with the Federal Republic.[4] Its agreement was given at Paris and has been approved by parliamentary action. The text has been submitted to the Senate for information.

The admission of the German Federal Republic to NATO will not impose on the United States any additional commitment beyond what would have been assumed by the protocol which the Senate approved in 1952. In both cases the protection of the North Atlantic Treaty is extended to the Federal Republic, and the latter assumes corresponding responsibilities.

As an essential contribution to the overall result, the President has made a declaration expressing our policy of active and continuing participation in the Atlantic security system represented by NATO.[5] This was done after consultation with leaders of both houses of the Congress. The statement reaffirms our interest in NATO and our determination to continue active participation in the arrangements which have been established thereunder. In particular, this statement contained an assurance, based on the language used in Senate Resolution 99 in 1951,[6] that the United States will "continue to maintain in Europe, including Germany, such units of its armed forces as may be necessary and appropriate to contribute its fair share of the forces needed for the joint defense of the North Atlantic area while a threat to that area exists." Also, the statement reiterates the United States view that the North Atlantic Treaty is of indefinite duration, announces our intention to cooperate with NATO and the Council for Western European Union on force levels and armament controls, and repeats our willingness to share information on the utilization of new weapons as authorized by the Congress.

My statement at London, outlining United States policy in these respects, followed as it was by Sir Anthony Eden's restatement of

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[1] *Supra*, pp. 871–873.

[2] S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22.

[3] *Ibid.*, pp. 23–24.

[4] See the Convention on the Presence of Foreign Forces in the Federal Republic of Germany, *supra*, pp. 610–612.

[5] See President Eisenhower's message of Mar. 10, 1955, to the Prime Ministers of the countries participating in the Western European Union; *supra*, pp. 989–991.

[6] *Infra*, pp. 1526–1528.

British policy,[1] constituted the turning point in a conference which, up to then, had no clear sense of direction.

My statement, most of which was incorporated in the Final Act of the London conference, which is before you, made clear that such Presidential assurances, when given, would be only policy statements, not binding either as treaties or even in the sense that future Presidents would be legally committed thereby. However, the assurances describe policies which have been developed through bipartisan cooperation over a period of years. They reflect what now seems to be the fundamental and enduring interest of the United States in European unity and Atlantic security. They will, I am confident, continue to serve our national interests.

I believe that the arrangements before you carry out faithfully the desires of the Senate, as expressed in its resolution of July 30, 1954.[2] They will restore sovereignty to the Federal Republic of Germany, and they will enable that Republic to contribute to the maintenance of international peace and security. Furthermore, these results will be achieved within a framework of unity for Western Europe, which, on the one hand, assures strength and, on the other hand, gives large assurance against an abuse of that strength.

OTHER EUROPEAN PROBLEMS

The conditions which these agreements will create will, I hope, lead to a solution of other European problems.

The reunification of Germany and the conclusion of the German peace treaty continue to be basic objectives of our policy. For 8 years now these objectives have been sought in repeated conferences with the Soviet Union. The first of those conferences was held at Moscow in the spring of 1947,[3] and the latest of such conferences was held at Berlin last year.[4] These conferences have come to naught because the Soviet Union has used them as occasions to maneuver against unity in the non-Communist part of Europe. Once, however, that unity is an irreversible reality, then conferences could be held with greater hope. The Soviet Union will no longer have the possibility of perverting these conferences into maneuvers against Western European unity. It may, perhaps, at long last, be possible to get down to the actual business of unifying Germany.

Furthermore, the arrangements for armaments control[5] set a pattern which might be adapted for wider use in Europe, if the Soviet rulers have a genuine desire to regulate and control armaments. They talk often and loudly about limitation of armament, but in fact they have never made any practical proposals. In contrast, there has here been quietly developed an effective system of controls and limitations. These apply to six fully sovereign nations, with a total population of over 160,000,000, possessing large industrial power and inheriting great military traditions. This constitutes an example without precedent. The whole world can usefully note it and profit from it. Perhaps adaptation and extension of this pattern of control of armament and of armament production can be usefully discussed between the East and West.

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[1] For the full texts of the statements by Secretary Dulles and the British Foreign Secretary, see annex II to the Final Act of the London Conference; *supra*, pp. 1484–1487.

[2] *Infra*, p. 1732.

[3] The Fourth Session of the Council of Foreign Ministers, Mar. 10–Apr. 24, 1947; see Secretary Marshall's report in *A Decade of American Foreign Policy*, pp. 97–106.

[4] The Berlin Meeting of Foreign Ministers, Jan. 25–Feb. 18, 1954; see *supra*, pp. 85–90, and *infra*, pp. 1850–1871.

[5] See Protocols Nos. III and IV to the Brussels Treaty; *supra*, pp. 979–989.

The necessary legislative action for ratification of the Paris Agreements has been completed by 10 of the 15 nations, including France, the Federal Republic of Germany, the United Kingdom, and seven others.[1] No reservations have been attached to the approval of the agreements in any case. Five parliaments have still to act—Belgium, Denmark, Luxembourg, the Netherlands, and the United States.[2] It appears that action in the European countries will be completed in a short time.

The early entry into force of the agreements, which now can be envisaged, will be greatly in the interest of the United States. Indeed, any substantial delay would seriously injure the interests of the United States.

In 1952 the United States Senate acted before France acted,[3] and France never did act favorably on those treaties. This time it seemed the part of wisdom for the United States not to be out in front. Now this deliberate deferring of United States action makes it the more important that there should be prompt action.

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[1] As of the date of Secretary Dulles' statement to the Senate Foreign Relations Committee, the following members of NATO had completed their parliamentary action on the Protocol to the North Atlantic Treaty on the accession of the Federal Republic of Germany: the British House of Commons voted favorably for ratification, Nov. 19, 1954 (the House of Lords took similar action, Nov. 24, 1954); the Norwegian *Storting*, Nov. 25, 1954; the Icelandic *Althing*, Dec. 16, 1954; the Italian Chamber of Deputies, Dec. 23, 1954 (the Senate, Mar. 11, 1955); the French National Assembly, Dec. 30, 1954 (the Council of the Republic, Mar. 27, 1955); the Greek Parliament, Jan. 18, 1955; the Portuguese National Assembly, Jan. 25, 1955; the Canadian House of Commons, Jan. 27, 1955; the Turkish Grand National Assembly, Feb. 16, 1955; and the West German *Bundestag*, Feb. 27, 1955 (the *Bundesrat*, Mar. 18, 1955). Of this list, the countries which were also signatories of the protocols to the Brussels Treaty took parliamentary action on the protocols at the same time they considered the NATO protocol on Germany.

[2] The Belgian Chamber of Representatives approved the NATO protocol on the accession of Germany, Jan. 20, 1955 (the Senate, Apr. 6, 1955); the Second Chamber of the Netherlands States General, Mar. 30, 1955 (the First Chamber, Apr. 28, 1955); the Luxembourg Chamber of Deputies, Apr. 6, 1955; and the Danish *Folketing*, Apr. 19, 1955. The parliaments of Belgium, the Netherlands, and Luxembourg voted in favor of the Brussels Treaty protocols on the dates indicated. The United States Senate advised and consented to ratification of the NATO protocol, Apr. 1, 1955.

[3] The United States Senate adopted a resolution, July 1, 1952, recommending, with an interpretation, U. S. ratification of the 1952 text of the Convention on Relations between the Three Powers and the Federal Republic of Germany. The validity of this convention depended upon the simultaneous adoption by its members of the Treaty Establishing the European Defense Community. The French Government delayed final parliamentary action on the EDC Treaty until Aug. 30, 1954, on which occasion the National Assembly voted not to recommend ratification of the treaty.

The relevant documents were transmitted to the Senate by the President on November 15, 1954,[1] and I trust that the Senate will now find it possible to take prompt, favorable action on the two treaties which require Senate approval.[2]

B. THE NORTH ATLANTIC TREATY ORGANIZATION

[The United States, Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, and the United Kingdom were original signatories of the North Atlantic Treaty of April 4, 1949. Greece and Turkey adhered by a protocol of October 17, 1951, and a protocol of October 23, 1954, provided for the adherence of the German Federal Republic. For the texts of the treaty and protocols, see supra, *pp. 812–815, 853–854, and 871–873.]*

Assignment of American Troops to NATO

21. STATEMENT BY THE PRESIDENT TO THE PRESS, SEPTEMBER 9, 1950[3]

On the basis of recommendations of the Joint Chiefs of Staff, concurred in by the Secretaries of State and Defense, I have today approved substantial increases in the strength of United States forces to be stationed in Western Europe in the interest of the defense of that area. The extent of these increases and the timing thereof will be worked out in close coordination with our North Atlantic Treaty partners. A basic element in the implementation of this decision is the degree to which our friends match our actions in this regard. Firm programs for the development of their forces will be expected to keep full step with the dispatch of additional United States forces to Europe. Our plans are based on the sincere expectation that our efforts will be met with similar action on their part. The purpose of this measure is to increase the effectiveness of our collective defense efforts and thereby insure the maintenance of peace.

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[1] S. Execs. L and M, 83d Cong., 2d sess.

[2] i. e., the protocols of Oct. 23, 1954, on the termination of the occupation regime in the Federal Republic of Germany (*supra*, pp. 483–485) and the accession of the Federal Republic of Germany to the North Atlantic Treaty (*supra*, pp. 871–873).

[3] Department of State *Bulletin*, Sept. 18, 1950, p. 468.

22. LETTER FROM THE PRESIDENT TO GENERAL OF THE ARMY DWIGHT D. EISENHOWER, DECEMBER 19, 1950 [1]

DEAR GENERAL EISENHOWER: The North Atlantic Treaty Nations have agreed on the defense organization for Europe and at their request I have designated you as Supreme Allied Commander, Europe. I view their request as a pledge that their support of your efforts will be complete and unequivocal.

I understand that the Standing Group of the North Atlantic Treaty Organization will shortly issue a directive to you concerning your responsibility and authority as the Supreme Allied Commander, Europe.[2]

You are hereby assigned operational command, to the extent necessary for the accomplishment of your mission, of the U.S. Army Forces, Europe; U.S. Air Forces, Europe; and the U.S. Naval Forces, Eastern Atlantic and Mediterranean.

Subject to overriding requirements of the Supreme Allied Commander, Europe, the missions, routine employment, training and administration of these forces will continue to be handled through command channels heretofore existing.

You are authorized to have officers and enlisted personnel of the U.S. Armed Forces, as well as civilian employees of the Departments of the Army, Navy and Air Force, for your Staff in such numbers and grades as you consider necessary.

I am sending a copy of this letter to the Secretary of State for his guidance and a copy to the Secretary of Defense for his guidance and necessary action by the Department of Defense.

You are undertaking a tremendous responsibility. As President and Commander-in-Chief of the Armed Forces of the United States, I know that our entire country is wholeheartedly behind you. Indeed, you carry with you the prayers of all freedom-loving peoples. I send you my warmest personal good wishes for success in the great task which awaits you.

Very sincerely yours,

HARRY S. TRUMAN

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23. REMARKS BY THE SECRETARY OF STATE AT A NEWS CONFERENCE, DECEMBER 22, 1950 [3]

This afternoon I would like to talk with you about the point we have reached in the development of the North Atlantic Treaty, what we did at Brussels,[4] and where we are going from that meeting.

I think the best way of putting this thing in perspective is to say that this meeting at Brussels was the conclusion of a chapter in a long book, a book in which the chapters which lie behind us are history, and the chapters that lie before us are plans for dynamic action.

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[1] Department of State *Bulletin*, Jan. 1, 1951, p. 7.

[2] For a description of the authority entrusted to the Supreme Allied Commander Europe, see the communiqués of the Fifth and Sixth Sessions of the North Atlantic Council, Sept. 26 and Dec. 19, 1950 (*infra*, pp. 1607–1609).

[3] Department of State *Bulletin*, Jan. 1, 1951, pp. 3–6.

[4] See the North Atlantic Council's communiqué of Dec. 19, 1950; *infra*, pp. 1608–1609.

So far as the North Atlantic Treaty organization is concerned, that is only one part of this book. It is an important part. That part of the chapter which lay before Brussels was a period, and a very important and necessary period, of planning and organization. We were thinking about drawing up the structure of this organization before we could go to work to put real muscle and real bone into it.

FIRST STEP IN FIELD OF ACTION

Brussels brought the culmination of that part of the North Atlantic Treaty work. We have finished the matter of plans. We have finished the matter of organization. Now we have taken the first step in the field of action. From now on it is action which counts and not further resolutions or plans or meetings, although there will be all of those.

At Brussels we did several things. We took recommendations which had come from the meetings immediately preceding in London and acted on those recommendations. They had to do with the creation of the united, unified, integrated army which is to provide for the defense of Europe. The papers which came to us laid out the structure of that army, how it should be composed, of what troops, where the troops should come from, how it should be organized, its command structure, the higher command structure which would give that army its direction, and how the Supreme Commander should be selected and appointed. We dealt with and acted upon all those matters.

SELECTION OF SUPREME COMMANDER

The structure was agreed upon and the force was created. The Council unanimously asked the President of the United States to select a United States officer to be the Supreme Commander.[1] A specific recommendation was made as to who it was hoped that officer would be. The President responded at once, and that officer, General Eisenhower, was unanimously appointed the Supreme Commander. As he has stated, he will leave shortly after the first of the year to go over and arrange for the creation and location of his staff.[2]

The creation of a supreme commander and the selection of General Eisenhower is an essential step and a most vital step in galvanizing into action the actual translation of these papers into terms of men with guns, matériel, air forces, and naval forces.

There must be this one dynamic figure to give all of our allies the guidance, the direction, and the inspiration which will lead to the translation of papers into organized people and organized things.

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[1] See the Secretary's telegram of Dec. 18, 1950, to the President transmitting the Council's request and the President's reply; Department of State *Bulletin*, Jan. 1, 1951, p. 6.

[2] See General Eisenhower's report of Feb. 1, 1951, on his tour of NATO capitals before an informal meeting of the Congress; *ibid.*, Feb. 12, 1951, pp. 245–251.

General Eisenhower, more than any living soldier, has the capacity, the prestige, and the imagination which can bring that about. His appointment is in itself a great act in Europe, which has completely revolutionized the attitude of people toward the problems ahead of them.

Now at Brussels also we considered material things as well as men with guns. It was clear to us that you cannot have an army, no matter how well organized, unless it is supplied, unless it is supplied in quantity, and unless all the productive capacities of all the allies are harnessed to that great effort. Consequently, the whole conception of the old production board was changed and there is to be a new vigorous and active board.[1] I trust that at the head of that there will be a man in the economic field as dynamic and as full of leadership as General Eisenhower is in the military field.[2] These two men must work very closely together if we are to use the vast potential and economic power of Western Europe to create what is necessary for this force.

Concrete Objectives of Unified Command

This force which is now in being means several concrete things. It means, first of all, that our forces in Europe will be, and they now are, under the command of General Eisenhower. It means that the British, French, Italian, Dutch, Belgian, and the forces of all the other North Atlantic Treaty nations which are now in existence for the defense of Europe will be, and many of them now are, under his command. It means also that those forces must be increased. They are not now adequate for their mission. They will be increased and steps are in process now by which they will be increased in France, in England, and in other countries of Europe; in the United States additional forces will be placed at General Eisenhower's disposal in Europe.

We made it clear also at Brussels that, contrary to the propaganda which the Soviet Union and its satellites are putting out, this is a defensive force. It will be clear to any intelligent person that it must be. Certainly there is no remote intention, and there never has been, to use this force for aggressive purposes.

German Participation

Also at Brussels we took action on the very important question of the relation of Germany to the defense of Western Europe. We cleared away the obstacles which had been in front of German participation. We made it perfectly clear to the Germans that their participation is a matter to be discussed with them. Their will and their enthusiastic cooperation is an essential part of anything which is to be done. We made it clear that, if they take part in this effort, then clearly their relations with the nations of Western Europe and with us in the United States will be and can be on a different basis from what they are now.

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[1] See the communiqué of the Sixth Session of the North Atlantic Council, Dec. 19, 1950 (*infra*, pp. 1608–1609), and Section VIII of the communiqué of the NAC Deputies, May 5, 1951 (*infra*, pp. 1609–1612).

[2] William R. Herod of the United States was appointed Coordinator of Defense Production.

Now that is perhaps nothing new to you. That is the action which was taken and I should like for a moment to try and put it in its relation with other chapters in this long book about which I have spoken.

The North Atlantic Treaty work is only a part of that book. The action at Brussels is only a part of one chapter. It is that important part, however, which is moving from plans into action.

Common Problem of Security

Now the rest of the book, the material part of the book, the part which is history, has to do with what we and our allies have tried to accomplish since the end of the war. What we have tried to accomplish has been in the light of a clear conception which we have all had. That is that the security of each one of us is tied up with the security of all of us, and therefore strength and security is a common problem and a common task. It is a task in which we must all wish to work together and in which we are all partners in the truest sense of the word.

So far as the United States is concerned, this is a national policy. It isn't a matter which has been decided by any small group of people in connection with any particular event. It is the product of the decisions of all the Executive branches of the Government, of the Congress, and of the people of the United States over a long period of years. It is something which has found expression at various times in different acts. Exactly these same conceptions were inherent in, were discussed, and were decided when the Greek-Turkish Aid Program came up in the early part of 1947.[1] These same ideas are inherent in the Economic Recovery Program.[2] These same ideas are contained in the so-called Vandenberg resolution passed by the Senate.[3] We moved from the economic field into the field of providing a common defense when we negotiated and almost unanimously ratified the North Atlantic Treaty.

Again this policy was reiterated when we came to the military defense program, which was to put our aid at the disposal of our allies while they were building up the forces which, with ours, would give a common strength and a common defense to all of us.[4]

Now all the way through these chapters of the book and in connection with all the steps that I have mentioned there have been dissenting views expressed. There have been views expressed that we should not use our resources and our power in conjunction with others to build up a common strength and a common defense, but that we should retire to our own continent, that we should try to isolate ourselves from the problems and difficulties of the world, and that here on our hemisphere we should attempt to secure ourselves against the dangers and difficulties of the world. This attitude, as I say, has been expressed, has been debated, and the contrary decision has been taken in each one of the steps which I have mentioned.

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[1] See *A Decade of American Foreign Policy*, pp. 1252–1267.

[2] See *ibid.*, pp. 1268–1327.

[3] Resolution of June 11, 1948; *ibid.*, p. 197.

[4] See *ibid.*, pp. 1356–1364.

Policy Examination and Recommendations of National Security Council

This attitude is one which is continually examined. It is the task of the National Security Council to examine all alternatives and make recommendations regarding them. When the National Security Council performs its duty in this respect, it speaks for the whole Executive branch of the Government which is concerned with the defense problems of the United States and with the moblilization of the economic power of the United States which is necessary to back up that defense. So that the National Security Council means, of course, the President, who presides at it and whose sanction is necessary for the validity of any of its acts. It means the whole military establishment on the civilian side and on the military side, the whole organization of the Joint Chiefs of Staff. It means the Department of State; it means the Treasury Department; it means the economic branches of the White House and the economic departments of the Government. They have examined this attitude many times, the last time quite recently, and, every time they have examined it, they have recommended unanimously that this is an impossible attitude for the United States to take because it spells defeat and frustration; it has no possibility of success; and therefore it is not an attitude which this Government can usefully take.

Conclusions Regarding Policy of Withdrawal

In our work on this particular question we have brought out many considerations. I shall mention a few of them.

It is our unanimous conclusion, and has been throughout all these years, and is now, that such a policy is a policy of withdrawal into our hemisphere and an attempt to deal on a defensive basis with the dangers in the rest of the world. Our conclusion is that the first result of that would enable the Soviet Union to make a quick conquest of the entire Eurasian land mass.

To do that leads us to the second conclusion, which is that it would place at the disposal of the Soviet Union a possession of military resources and economic power vastly superior to any that would be then available for our home security. It would give the Soviet Union possession of a strategic position which would be catastrophic to the United States.

In that situation we come to the third conclusion. In such a position, the Soviet Union would be able to nullify our power. Such nullification would be attempted, because, isolated as we would be, we would still have some potential threat to the success of the Soviet plans.

We then come to the fourth conclusion, which is that such a developing situation would make any negotiation, any peaceful settlement of the problems before us, quite impossible. It would so unbalance the power in the world and put us at such a vast disadvantage that negotiation would not be possible at all.

That leads to the fifth conclusion. Negotiation not being possible, we would then be brought either to the position where we must accept whatever terms were imposed or where we would have to fight without allies merely to maintain, if we could in that precarious position, our own physical existence.

I say physical existence because that brings us to the sixth conclusion. A position of that sort, accepted by us, would undermine the entire constitutional structure, the entire morale position, and the entire heritage of the American tradition.

Therefore the National Security Council has rejected this policy because it concludes that it is a self-defeating policy and one which could lead only to surrender or to defeat.

Building Strength To Maintain Freedom

The attitude which we take is that we and our allies are moving ahead with courage and with determination to build our common strength. We regard our dangers as common dangers and we believe that they can be met and must be met by common strength. We believe that they need our help in order to maintain their security and that we need their help. We know that, if, by an indifferent attitude, we abandoned our allies without regard to future consequences, we would find ourselves in a position of unutterable national shame and great national weakness.

Therefore, we are taking a policy of going forward with vigor and with determination and with courage. We are rejecting any policy of sitting quivering in a storm cellar waiting for whatever fate others may wish to prepare for us. As I say, we have rejected that course and, as the President made entirely clear last week,[1] we are firmly resolved to build our strength side by side with our allies. By doing so we believe that we are calling upon the great potential strength of the entire free world to maintain its freedom. We believe that we can, if we pull together, build that strength and we are determined that we shall build it.

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24. STATEMENT BY THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEES ON FOREIGN RELATIONS AND ARMED SERVICES, FEBRUARY 16, 1951[2]

A useful starting point in dealing with the most important questions which must be considered by the committee is to fix clearly in our minds the fundamental problem of which these questions are a part.

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[1] Address of Dec. 15, 1950; Department of State *Bulletin*, Dec. 25, 1950, pp. 999–1003.

[2] *The Joint Defense of Western Europe* (Department of State publication 4126; 1951), pp. 1–13; see also the statements of Feb. 15, 1951, by Secretary of Defense Marshall (*ibid.*, pp. 14–18), and of Feb. 16, 1951, by General of the Army Bradley (*ibid.*, pp. 19–22).

The basic problem before us is how best to protect the security of our country against the threat we face.

The source of this threat is clear. It is the powerful military force assembled by the Soviet Union and its satellites, combined with the hostile intentions which the Soviet Union has demonstrated toward the entire non-Soviet world and the willingness it has recently shown to risk general war.

The job of protecting our security against this threat has three parts:

First, to prevent the outbreak of war;

Second, to prevent the Soviet Union from accomplishing its aggressive purposes by means other than war; and

Third, to make certain that the free nations will not be defeated, if war is forced upon us.

All three of these elements are essential in the strategy of our defense as it relates to the threat in Europe, which is what we are primarily concerned with here today. Our primary aim is to prevent an attack against Europe. At the same time, we seek to prevent Europe from being taken over by the Kremlin through other means. And finally, if despite our best efforts there should be an attack on Europe, we want to prevent it from succeeding.

It is important for us to keep in mind that all three purposes are essential to our security and that the building of a strong, integrated force in Europe is vital to each of these elements.

Some have approached this problem as though the chief, if not the sole question is: "How do we repel the attack after it is launched?"

The trouble with talking about this part of the problem as if it were the main question, or even the question of primary concern to our own security, is that it increases the risk of losing Europe in other ways. It is not only the threat of direct military attack which must be considered but also that of conquest by default, by pressure, by persuasion, by subversion, by "neutralism," by all the paraphernalia of indirect aggression which the Communist movement has used.

If we approached this problem as though our sole concern were how we were going to act after Europe had been attacked, regardless of the human cost, whatever the devastation, then we can scarcely expect our European allies to show much enthusiasm for the prospects of the future. This kind of strategy drives our friends in Europe into a mood of nonresistance, a mood of "neutralism," which is, for them and for all of us, a short cut to suicide.

So our first purpose—and this is something we need to make absolutely clear to our friends in Europe—is to deter the aggressors from attacking Europe. Our primary concern is not how to win a war after it gets started but how to prevent it and how to help Europe stay free in the meantime.

Now, what is it on which we can rely to prevent an attack on Europe?

There are three deterrent factors to be considered. One is the retaliatory power now in our possession—our capability of striking with air power against the centers of aggression. Another is the reserve power which helps to convince the Russians that they could not win in the end. And finally, there are the integrated forces in being of the North Atlantic Treaty nations.

This third deterrent factor is the one at issue. This is the deterrent which is now weak and which we are now striving to build up as quickly and as effectively as we can do it.

A number of questions have been raised about this effort to build up the forces in being in Western Europe. Some have asked why we need to do this—why we can't continue to rely on the deterrent force of our retaliatory air power, and our reserve power elsewhere. Some have argued that this European defense force cannot possibly be made large enough to be effective, while others have argued that this European defense force would be so great a threat to the Soviet Union that it would be provocative. These concerns, although contradictory of each other, have led to a common line of reasoning—that we should not move ahead with our European allies in building a defense force in Western Europe.

Apart from the helpless and defenseless predicament in which this course of action—or more accurately, this course of inaction—would leave us, there are a number of powerful considerations which point to the conclusion that our own security, as well as the security of our allies in Europe, requires vigorous efforts to build an effective defense force in Europe at the earliest possible moment.

One reason why we cannot continue to rely on retaliatory air power as a sufficient deterrent is the effect of time. We have a substantial lead in air power and in atomic weapons. At the present moment this may be the most powerful deterrent against aggression. But with the passage of time, even though we continue our advances in this field, the value of our lead diminishes.

In other words, the best use we can make of our present advantage in retaliatory air power is to move ahead under this protective shield to build the balanced collective forces in Western Europe that will continue to deter aggression after our atomic advantage has been diminished.

Another reason why the availability of defense forces in being in Western Europe is necessary is that it enables the free nations to deal more effectively with, and thus to prevent, the various forms of aggression that threaten them. So far we have been talking about the possibility of bold, naked aggression by the Soviet Union itself. But we have seen recent examples of another form of Communist aggression—disguised aggression through a satellite.

We see at the present time the build-up of forces in East Germany and the satellite states. This build-up contains the possibility of overt moves which could be disclaimed by the real center of aggression. In the absence of defense forces in being, satellites might be used for such disguised aggression in the hope that they could get away with it, since the free nations could respond only with the weapons of all-out general war or not at all. The presence of adequate defense forces would remove this temptation.

We have also become familiar with the Communist use of indirect aggression, in which the Communists employ the weapons of fear and threats to undermine confidence and paralyze the will to resist. We saw this happen in Czechoslovakia. The presence of adequate defense forces in being is also a bulwark against this kind of aggression.

The argument is sometimes advanced that the Western European defense forces cannot be made large enough to equal the forces available to the potential aggressor, man for man, and therefore would be useless. The difficulty with this argument is that it considers the European defense forces in isolation, as a sole weapon, instead of considering these forces as a vital adjunct to the other deterrent forces available. It is not the case that ground forces would or could be sufficient by themselves or that air or sea power by themselves could or would be sufficient, but that the three elements of our deterrent forces, taken together, are the best means of preventing an attack from taking place.

However overwhelming our available air striking power is likely to be in the period ahead of us, the presence of defense forces in being in Western Europe is a vital part of the effectiveness of our air power as a deterrent to attack. Not only do air forces require bases from which to operate, which must be held on the ground by defense forces, but air power alone is not a sufficient deterrent against the risk of a quick all-out effort to seize the continent. Without integrated forces in being, a potential aggressor may be tempted to gamble on the possibility of a quick initial thrust. If there are no forces available on the ground even to slow up this rabbit-punch, our air power, though it worked great damage against the centers of aggression, could not be in a position to prevent the devastation of Europe.

An adequate initial defense is an essential part of our efforts to deter an attack against Western Europe, and this initial defense can come only through having forces in being in Europe.

All these considerations which apply to our efforts to deter an attack by building collective forces in Europe apply with equal force to the necessities we would face if, despite our best efforts, Europe were attacked.

In the event of an attack the availability of defense forces in Europe would give us time that we would vitally need to bring our other forces into operation. In the meantime these defense forces would oblige the aggressor to use up his available resources, while his home sources of supply were being bombed. These forces would also deny him access to the industrial, human, and other resources of Europe. These are the resources that balance the scales of power. These are the forces that would prevent Europe, in the event of an attack, from having to go through another occupation and liberation.

I believe that the American people understand and agree on the importance of Western Europe to our own security. There was a time when the argument that the United States should concentrate on its own shorelines, and leave the rest of the world to its fate, had some appeal for Americans. But the inadequacy of this approach to our security problem is self-evident from even a brief examination of the fundamental relationship which exists between the United States and Western Europe.

I prefer, as do many Americans, to give great emphasis to our intangible ties with Western Europe. These include our bonds of personal kinship, our mutual intellectual heritage, and our community of social and spiritual values. They also include a common belief in the ideals of democracy and human freedom—in the dignity of the individual and the right of the whole people to exercise control over those who govern them. Many of us believe that these ideals are, in the long run, more powerful than guns and bombs and that they will outlast all the deceptive philosophies which promise so much and give so little. We also know from experience that no nation can be secure in its own liberty if it permits that of its neighbor to be destroyed by aggression or subversion.

But our policy does not rest solely upon these intangibles, important as they are. To those who refuse to see the long-range value of human freedom as an asset in itself, let me repeat certain cold, material facts about our relationships with Europe. Outside of our own country free Europe has the greatest number of scientists, the greatest industrial production, and the largest pool of skilled manpower in the world. Its resources in coal, steel, and electric power are enormous. It has a tremendous shipbuilding capacity, essential to control of the seas. Through its overseas connections it has access to a vast supply of raw materials which are absolutely vital to American industry.

As an ally Western Europe represents more than 200,000,000 free people who can contribute their skills, their resources and their courage to our common defense. Under the heel of an aggressor Western Europe would represent 200,000,000 slaves, compelled to bend their energies and employ their resources for the destruction of the United States and the remainder of Western civilization. Under present world tensions there are but two possibilities for Europe. It will either be an adequately defended ally, a great addition to the defense of freedom, or it will fall under the control of the Kremlin, multiplying the military might of the Soviet armies.

The recent questions that have been raised about the importance of Western Europe to our security appear to be based on wishful assumptions which must be examined in the light of certain hard facts. If continental Western Europe were to fall, the British Isles would be placed in grave peril. We cannot assume that, if Western Europe were to come under Soviet control, its productive capacity would not be put to use against us or that governments in exile would continue to hold within the free world the overseas areas with which they now have strong ties and which produce so many of the basic raw materials on which our military strength depends. If the Western Hemisphere were to stand alone only a partial picture of our peril can be gaged by considering the difficulties of obtaining access to the strategic materials necessary to maintain a defense effort of the size now contemplated. A true picture can be obtained only if one considers what our position would be like if 87 percent of the world's manpower, and more than half of its productive capacity, were to fall under the control of international communism.

The North Atlantic Treaty reflects the three essential elements of our security effort: to prevent an attack; to prevent Europe from being conquered by other means; and to prevent Europe from being taken by force.

A great deal of the public discussion of the North Atlantic Treaty has centered around article 5 of the treaty. Article 5 provides that an attack against one member shall be considered as an attack against all. But the treaty does not limit itself to a consideration of what shall be done *after* an attack. As I have already pointed out, we are more concerned with preventing the attack by taking appropriate measures in advance to insure that it cannot succeed.

The preamble of the treaty states the determination of the 12 nations to safeguard the freedom of their peoples and their resolution to unite their efforts for collective defense and for the *preservation* of peace and security. In consequence, article 4 provides for consultation whenever the territorial integrity, political independence, or security of any of the members is threatened.

And article 3 deals specifically with this matter of primary concern. It states:

> "In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack."

These provisions of the treaty spell out the intent of all 12 nations to work out an integrated defense now, not to wait and develop such a defense only if an attack occurs. It has been stated over and over again that the fundamental purpose of the North Atlantic Treaty is to preserve peace. This we are seeking to do in the only way in which it can be done—by making certain in advance that aggression will not succeed.

As General Marshall indicated yesterday in his testimony,[1] Congress fully recognized this in drafting the Mutual Defense Assistance Act of 1949.[2] The Congress incorporated the requirement that the President of the United States approve recommendations for an integrated defense of the North Atlantic area which may be made by the North Atlantic Treaty Council and Defense Committee before the bulk of the funds authorized by the act could be made available.

Such a recommendation for the integrated defense of the North Atlantic area was made by the Treaty Council and the Defense Committee and on January 27, 1950, was approved by the President.[3]

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[1] *The Joint Defense of Western Europe*, p. 14.

[2] Act of Oct. 6, 1949; *A Decade of American Foreign Policy*, pp. 1356–1364.

[3] See the President's statement of Jan. 27, 1950, on the occasion of the signing of Mutual Defense Assistance Agreements with the NATO countries; Department of State *Bulletin*, Feb. 6, 1950, pp. 198–199.

Implied in the approval of this strategic concept was the idea of balanced collective forces. Our military planners quickly came to the conclusion that it was essential to build upon the basis of balanced collective forces, not balanced national forces. A balanced collective force permits great economies and greatly enhanced military effectiveness.

We took the leadership in advocating this step, and it was with satisfaction that I, as the Chairman of the Council, announced agreement on this principle in May 1950.[1]

The next major development was stated in the following announcement by the President on September 9:

> "On the basis of recommendations of the Joint Chiefs of Staff, concurred in by the Secretaries of State and Defense, I have today approved substantial increases in the strength of United States forces to be stationed in Western Europe in the interest of the defense of that area. The extent of these increases and the timing thereof will be worked out in close coordination with our North Atlantic Treaty partners. A basic element in the implementation of this decision is the degree to which our friends match our actions in this regard. Firm programs for the development of their forces will be expected to keep full step with the dispatch of additional United States forces to Europe. Our plans are based on the sincere expectation that our efforts will be met with similar action on their part. The purpose of this measure is to increase the effectiveness of our collective defense efforts and thereby insure the maintenance of peace." [2]

Here again let me emphasize that there was no intention to create a North Atlantic ground force which taken by itself would match the Soviet and satellite forces. What this step did was to accelerate the formation of a balanced force in Europe which, when added to our other sources of strength in the free world—that is, our retaliatory power and the vast uncommitted reserves—would support the policies already outlined.

For some time prior to the President's announcement, the Defense Ministers of the North Atlantic countries and their military advisers had been working on the number and types of forces required for the defense of Western Europe in accordance with the strategic concept I mentioned a moment ago.

At meetings in the spring of 1950,[3] an estimate was given preliminary approval for planning purposes by the Defense Ministers and by the Council, which requested the Defense Ministers to refine it further. Meanwhile each country was requested to build up its forces available to the North Atlantic Treaty Organization as rapidly as possible, in the knowledge that any feasible action would be well within the limits of any possible revision.

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[1] Statement of May 18, 1950 (*ibid.*, May 29, 1950, pp. 829–830); cf. the Council's communiqué of May 19, 1950, *infra*, pp. 1604–1606.

[2] *Supra*, p. 1504.

[3] See the communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950; *infra*, pp. 1604–1606.

At the October 1950 meeting of the Defense Ministers,[1] the requirements for defense of the North Atlantic area were further considered. They were regarded as being sufficiently refined to furnish the goals both for North Atlantic Treaty organizational planning and for the guidance of national efforts to increase national forces. At the same meeting the Defense Ministers received from each country time-phased programs for creating forces for the defense of the North Atlantic area.

On the basis of the estimated requirements and the national programs, it appeared that we had a sound basis for reaching within a reasonable period of time our goal of forces adequate to perform the mission of defending Western Europe, although it was clear at the time, and it is clear now, that additional effort on the part of all the partners was and is required.

There remained the task of developing the most efficient and economical organization and command structure for integrating these national forces. It was the approval of this organization and command structure which was the significant accomplishment of the meeting of the Council at Brussels in December.[2]

The Council unanimously requested the President of the United States to designate a Supreme Commander—General Eisenhower—to head that force.

The integrated force represented a further accomplishment in that it provided the most acceptable basis on which Western Germany might add its strength to our common cause of defending freedom.

In my view these actions represent real progress. True, much remains to be done before we achieve our goal of an adequate, integrated defense force. However, our allies are now taking steps which bring us measurably closer to realization of our ultimate goal.

Roughly speaking the combat forces of our European allies may be expected to double in the next year.

General Eisenhower has reported to you on the will and determination of our treaty partners to defend themselves in this common effort,[3] and I fully share his views.

In the current discussions of what our actions should be in relation to these matters, it seems to me that there is substantial agreement on certain vital points.

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[1] See *NATO: The First Five Years, 1949–1954* (Utrecht, 1955), pp. 33–34.

[2] See the communiqué of the Sixth Session of the North Atlantic Council, Dec. 19, 1950; *infra*, pp. 1608–1609.

[3] See General Eisenhower's statement of Feb. 1, 1951, before an informal meeting of the Congress (*Assignment of Ground Forces of the United States to Duty in the European Area: Hearings Before the Committee on Foreign Relations and the Committee on Armed Services, United States Senate, Eighty-second Congress, First Session, on S. Con. Res. 8, a Concurrent Resolution Relative to the Assignment of Ground Forces of the United States to Duty in the European Area*, pp. 1–8) and excerpts from his testimony before the committees on the same date (*ibid.*, pp. 8 ff.). Cf. his remarks in a radio broadcast of Feb. 2, 1951 (Department of State *Bulletin*, Feb. 19, 1951, pp. 285–287).

First, there is general acceptance of the vital importance of a free Western Europe to our own existence.

Second, there is no dispute concerning the basic principles underlying the North Atlantic Treaty.

Third, there is general agreement on the necessity of increasing the strength of our own land, sea, and air forces.

Fourth, it is generally agreed that the primary purpose of these policies is not just to keep us out of a land war in the North Atlantic area but to prevent there being any war in that area.

Fifth, there also seems to be general agreement that we should send some additional troops to Europe to do our part in helping to build an integrated force, as one of the necessary deterrents to war.

What, then, is the issue? Fortunately it is a very narrow one. It involves the amount, the manner, and timing of the build-up of our ground forces now in Europe in the interests of the security of this country.

General Marshall has told you the size of the force which we have had in mind contributing under present conditions.[1] Of course the contribution of this country on the sea and in the air is understandably greater.

But it is not only the size of our contribution which is important, but the manner of it. The spirit of our participation is in the final analysis directly related to the morale of this entire operation, and morale, as General Marshall emphasized yesterday, is the vital ingredient of our security system.

We are bound to our allies by ties of common interest, and a clear appreciation of these ties is the fundamental basis of the actions we are here discussing.

The North Atlantic Treaty is a voluntary association of 12 free nations determined to preserve their security through collective action. In taking steps under article 3 of the treaty to develop collective capacity to resist armed attack, no nation can be compelled to take steps contrary to its convictions, and none is obligated to ignore its national interests. The report of the Senate Committee on Foreign Relations made it clear that in building up the collective capacity to resist armed attack each nation "would determine for itself what it could most effectively contribute in the form of facilities, military equipment, productive capacity, manpower, etc."[2] The thing that really holds the integrated force together is the continuing conviction that the national interest of each party is most effectively served by working together through the integrated force.

Finally, I should like to speak to the suggestion that we await the full development of Europe's own defensive force before making our contribution. The need for the strength to deter aggression is immediate, and we have already learned how swiftly events may move in the modern world. Our allies are building their forces *now;* the time for our own contribution is *now.* If each of the North Atlantic nations should wait to appraise its partners' efforts before determining its own, the result would be as disastrous as it would be obvious. Whatever risks we may run by following the policies which our country has pursued thus far, the greatest risk of all is that we might once again hear the bitter refrain: "Too little and too late." And this time there may be no opportunity to remedy the mistake.

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[1] *The Joint Defense of Western Europe* (Department of State publication 4126; 1951), p. 16.

[2] Report of June 6, 1949; *supra*, pp. 825–852.

There can be no real question as to America's willingness to contribute its fair share of manpower and equipment to the defense of the North Atlantic area. But we have another contribution to make which is equally vital—the spark of leadership. Since World War II the Congress and the Executive Branch have recognized this fact and have cooperated fully in performing the many tasks which the role of leadership involves. From the formation of the United Nations to the recent designation of General Eisenhower as Supreme Commander of the North Atlantic Treaty forces, this country has remained continuously in the front ranks of the struggle to assure peace, freedom, and security throughout the world.

We sometimes forget the historic nature of the steps through which we have passed in the past 5 years in our efforts to establish peace and security in the world.

We sometimes lose sight of the profound advance which is represented by the close association which has grown up among the nations of the North Atlantic area and the significance of this association for the entire world.

We have passed through the period of organization; we have passed through the phase of planning; we have passed through a time of the awakening of people to the nature of the true danger in the world. We are now deep in the period of action.

We must carry forward the construction of the forces upon which the hopes of peace of the entire civilized world are founded.

At this moment there could be no greater contribution to the cause of peace than for the Government of the United States, in all its branches, to reaffirm the course of action on which we are moving.

25. STATEMENT BY THE CONSULTANT[1] TO THE SECRETARY OF STATE BEFORE THE SENATE COMMITTEES ON ARMED SERVICES AND FOREIGN RELATIONS, FEBRUARY 26, 1951[2]

I appreciate deeply this opportunity to testify before the distinguished members of the Joint Committee on Foreign Relations and Armed Services upon the questions which have been raised by the resolution introduced by Senator Wherry.[3]

During the course of these hearings,[4] distinguished American officials and private citizens have discussed with this Committee the large interests of American foreign policy and particularly the interest of our own security, which require the defense of Western Europe and our participation in that defense. I believe strongly in the force and validity of their arguments, but I do not intend to repeat or elaborate them in this statement.

The proposals which have been made that the use of American ground forces should be prohibited, or that restriction should be placed upon their use in Western Europe, are based in part upon two related fears. One is that our partners in the North Atlantic Treaty Organization will not take adequate measures in their own defense. The second questions their resolution to defend themselves, or, as it is bluntly called, "the will to fight." These doubts have led to statements that the sending of additional troops to Europe would commit the United States to the major share of its defense on the land. It is to the questions of the adequacy of the efforts now being made by our partners and their "will to fight" that I desire to address myself today.

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[1] John Sherman Cooper.

[2] Department of State *Bulletin*, Mar. 12, 1951, pp. 428–431.

[3] On Jan. 8, 1951, Senator Wherry announced: ". . . I am submitting to the Senate a resolution declaring it to be the sense of the Senate that no United States ground troops shall be sent to western Europe pending determination by the Congress of a policy on that matter." (*Congressional Record*, vol. 97, p. 94.) A modified version of the Wherry resolution (S. Res. 8), providing for a joint investigation of the question by the Committees on Armed Services and Foreign Relations, was passed on Jan. 23, 1951 (*ibid.*, p. 546):

> "Resolved, that the Committee on Armed Services and the Committee on Foreign Relations are authorized and directed to meet jointly to consider and report recommendations on whether or not the Senate should declare it to be the sense of the Senate that no ground forces of the United States should be assigned to duty in the European area for the purposes of the North Atlantic Treaty pending the adoption of a policy with respect thereto by the Congress. Such report, which shall be approved by a majority of the combined membership of the Committee on Armed Services and the Committee on Foreign Relations, shall be limited to the subject matter of this resolution, and shall not contain any recommendation on any matter which is not germane thereto or which is in substantial contravention thereof, or any recommendation either approving or disapproving the assignment of ground forces of the United States to duty in the European area for the purposes of the North Atlantic Treaty, and shall be made on or before February 2, 1951." (*Ibid.*, pp. 544–545.)

[4] See *Assignment of Ground Forces of the United States to Duty in the European Area: Hearings Before the Committee on Foreign Relations and the Committee on Armed Services, United States Senate, Eighty-second Congress, First Session, on S. Con. Res. 8, a Concurrent Resolution Relative to the Assignment of Ground Forces of the United States to Duty in the European Area.*

NATO MEETINGS

Since last May, I have worked with the Secretary of State, Mr. Acheson, upon matters connected with the North Atlantic Treaty Organization.[1] As an adviser, I attended the London meetings of the North Atlantic Council last May [2] and the Brussels meeting in December.[3] In August 1950, I went with Mr. Charles Spofford, the United States representative, to attend the first meeting of the Council of Deputies held in London.[4]

My only purpose in citing these facts is to indicate an opportunity to know the recommendations that have been made by the Council and to appraise through a period of 10 months the adequacy of the measures taken by treaty members toward carrying into effect the Council's recommendations.

At the London meeting of the Council, held last May, the discussions were in the planning stage. They were directed to the completion of a defense plan for the North Atlantic area and the development of an integrated force of national units to make the plan effective.

The first meeting of the Council of Deputies in August was held in an atmosphere of greater urgency. The aggression against South Korea, undoubtedly directed by Russia, had been committed. The United States had acted to increase its defense budget and forces. The chief purpose of the August meeting was to urge other nations to make a corresponding effort and to hasten their defense preparations. The response was cautious and inadequate. It was evident that Governments were proceeding upon the premise that it was possible to build a defense, or at least some defense, without any diminution or change in domestic and social programs. It was the time, inconsistent in its terms, of "parallel priorities." The London *Times* characterized it more correctly as a time of "arms without tears." Members of the Committee will recall that on my return last August, I expressed to them, as I did publicly, a conviction that the defense efforts made at that time, were wholly inadequate.[5]

WESTERN EUROPE INCREASES DEFENSES

After the Brussels meeting in December, I remained in Europe for 7 weeks, visiting Great Britain, France, Italy, Belgium, Holland, Luxembourg, and Western Germany. In these countries I had the opportunity to talk to Government officials, leaders of opposition parties, members of the parliamentary bodies, trade union leaders, businessmen, newspaper people, veterans, and students, as well as civil and military personnel of the United States.

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[1] Mr. Cooper's appointment as Consultant to the Secretary of State was announced by the Department of State, Mar. 28, 1950; Department of State *Bulletin*, Apr. 10, 1950, p. 572.

[2] See the communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950; *infra*, pp. 1604–1606.

[3] See the communiqué of the Sixth Session of the North Atlantic Council, Dec. 19, 1950; *infra*, pp. 1608–1609.

[4] See the statement of Aug. 11, 1950, by the Secretary of State on the content and progress of the NAC Deputies' meeting; Department of State *Bulletin*, Aug. 21, 1950, p. 306.

[5] See Mr. Cooper's statement of Aug. 19, 1950; New York *Times*, Aug. 20, 1950.

From these talks and observations, and upon a basis of comparison with conditions existing last year, I formed certain conclusions upon the defense measures being taken in Great Britain, France, and Italy and upon the extent of their support by public opinion.

The first conclusion is that there has been a complete reversal by the Governments from the attitude held last August that it was possible to have an effective defense program without making it the prior and chief objective.

I am certain that the intellectual and moral decision has been made by the Governments of the United Kingdom, France, and Italy that their countries must make a full defense effort and that they will support fully the defense of Western Europe.

The extent to which this decision is being implemented and the support that it is receiving from the people varies, but this indispensable decision has been made.

There is a natural tendency to judge the action of European treaty members in terms of the resources and capabilities of the United States.

In comparison with the steps taken by our country, the present defense programs of Great Britain, France, and Italy may not appear large. In terms of their capabilities and responsibilities, they represent large advances. They have made the start toward adequate defense programs.

UNITED KINGDOM

My second conclusion is that defense measures will be enlarged and enlarged quickly if the United States participates fully in the defense of Europe. I will speak first of the United Kingdom. Prior to the war in Korea, the United Kingdom was spending a larger proportion of its gross national income upon defense than the United States and, in proportion to population, the strength of its armed forces was larger than that of the United States. Nearly 275,000 of its troops were serving in foreign countries.

Since Korea, the defense budget of the United Kingdom has been increased three times from a figure of 2,237 million dollars to approximately 4,700 million dollars annually. It has been announced that programs are under way which will double military production in 2 years and quadruple production in the third and fourth years. Regular military forces are being increased and reservists will be called up. Compulsory service in the armed forces has been increased from 18 to 24 months, and the bottom age limit is 18 years. Great Britain has as large a force in Germany as the United States and has already made the decision to send additional divisions. Thus, the difficult decisions of increasing the term of military service, fixing the minimum age limit for compulsory service, and of sending additional troops to Europe, which are being debated today in the United States, have been made by the United Kingdom.

The matter of economic controls is very much on our minds today. Again it must be remembered that the Government of the United Kingdom possesses the power to mobilize totally the manpower and material resources of the United Kingdom and that many controls have been continuously in effect since 1940.

Upon the political side, it can certainly be said that there is no opposition from the "opposition party" to an expanding defense program.

I believe that it is a true statement to say that the United Kingdom has an adequate program under way and that it will make its full defense effort and contribution to European defense. I have never heard anyone question the British "will to fight."

FRANCE

France, like the United Kingdom prior to the Korean war, was appropriating to its defense budget a larger percentage of its national income than the United States. Its military forces were larger than ours in proportion to population. Large French forces have been engaged in Indochina for many months, tying down the bulk of commissioned and professional soldiers and noncommissioned officers of the French army. France believes that these forces are performing a valuable mission in preventing the spread of aggression in Southeast Asia.

Since Korea, France has increased its defense budget by some 30 percent to approximately 2,200 million dollars, tightened its compulsory service system, and increased the length of military service from 12 to 18 months. It is reequipping its forces with the aid of our Military Defense Assistance Program. It has more troops in Germany than has the United States and has made the decision to send additional troops.

Upon the question of "will to resist," France can point to these decisive steps that have been taken by its Government, a Government containing men whom it would be difficult to match in intelligence, courage, and imagination. There is no question about this Government's "will to fight." It can point to the heroism of its troops in Indochina and Korea. The high estimate which French officials place upon the improved morale and effectiveness of their troops in Germany was confirmed to me by United States and British military personnel.

It is more difficult to report upon the attitude of the French people. I can only say that every French official and every private person with whom I talked said vigorously and, at times with some anger, that there was no substantial support in France for a policy of "neutralism."

The officials of the anti-Communist labor union were confident that their strength is growing and that their membership will support fully the defense program of the nation. They point to the inability of the Communists to halt the unloading and transfer of military supplies.

Every French official and political leader with whom I talked believes that confidence in the ability to build an effective defense is growing among the French people. This is important and must be given weight, for you will agree with me that it is a necessity that those in public [life] be able to appraise correctly the opinion of their people.

I have discussed France at some length because the movement in France toward defense is in a sense typical of Europe. With the possible exception of Italy, the magnitude of the efforts made in other countries is not yet so great, but in each country, defense budgets have been increased, military forces are being increased, reorganized, and equipped. Confidence is growing among the people.

ITALY

The strong desire of Italy, limited by its peace treaty, to participate in European defense, its vigorous Government, and the recent defections in the Communist Party, are characteristic evidences of this confidence.

I do not want to exaggerate. It is certain that Europe could not defend itself now against Soviet aggression. It is certain that its programs are yet inadequate. But it is a growing, developing process that can succeed with our help.

Faith in U. S. Builds Confidence

My last conclusion, and one which I emphasize most strongly, is that the magnitude and adequacy of the European defense effort and the speed with which it moves will depend at last upon the confidence of the people of Europe that it has a reasonable chance of success.

The indispensable requirement in building that confidence is that the United States will participate fully in the defense of Europe in the air, on the seas, and I emphasize, on the land.

If there is belief in the constancy of our policy, if there is faith that we will carry out every obligation of the North Atlantic Treaty, that we will join in the defense of Europe in the initial stages of an assault, should it come, there will be a defense of Europe. Without that faith, the effort which is necessary will not be made.

This is applicable to Germany. There I talked to a larger number of people than in any other country. I am certain that they have made their choice with the West. Eight million expellees and hundreds of thousands of veterans who were war prisoners of the Russians know their cruelty and tyranny. But the Germans are exposed. They will not arm before there is some assurance of security. They do not believe there will be such assurance without United States participation in defense.

I make it clear that this is not a proposal to defend Europe singlehanded. I found no official in Europe who believed that the United

States should or would defend Europe alone. Everyone understands that the United Kingdom, and every European treaty member, must contribute fully, but everyone knows that without the full participation of the United States at this time, defense is impossible.

It may be said that we have committed ourselves to mutual defense by the North Atlantic pact. But there is a vast difference between the statement of a commitment made in the best of faith and in providing the means to make the commitment effective. The Korean experience emphasizes the difficulty and time necessary to transport men and equipment after an assault has commenced. However good our intentions, it is doubtful that we would be able to transport men and equipment to Europe in time, once an assault has started. The people of Europe have suffered one occupation. They know that a Soviet occupation would stamp out the elements of resistance and then civilization. Their interest is in an effective defense.

This means that the United States and Great Britain must commit men and equipment to deter an assault or to defend against it if it comes.

Will these decisions provoke an attack? I would like to report to the Committee that every official, every party leader, every labor leader with whom I talked expressed the opinion that the commitment of additional troops would not cause Soviet action. All said that to fail to defend ourselves would ultimately encourage Soviet aggression or would bring about the loss of Europe through subversion, hopelessness, and despair.

Purpose of North Atlantic Treaty

I would like to emphasize, as so many have done, that the great purpose of the pact is not to be found in article 5 and the measures which would be taken in the event of war.

The great purposes of the pact are to deter aggression, to prevent war, and to build such military and economic strength, and a unity that in time may enable us to escape the impasse which binds us today.

The people of Europe and Great Britain are tremendously tired of war. Around them are the monuments of destruction. The best of a generation of young men are gone. Their civilian populations have suffered material and psychological wounds that we have not experienced. They do not have our resources, or industrial plants, yet there is a growing determination to make the effort and sacrifice for defense.

U.S. Obligations and Leadership

In summing up, I make these points:

First.—There is a full understanding in Europe of the aggressive purposes of Soviet Russia and of their threat to Europe.

Second.—The Governments have made the decision that the defense of Europe must be constructed to deter aggression and to withstand it if attacked.

Third.—The peoples are awakening and will make the great effort to build a defense if they have reasonable confidence that it will succeed.

Fourth.—The absolute requirement for that confidence is the full participation of the United States in the defense of Europe with ground forces as well as sea and air forces.

Fifth.—The question which is now being debated, that is the sending of additional troops by the United States to Europe, is crucial. If a decision emerges from this debate which denies the use of ground troops or so limits their use as to cast doubt on our purpose to stand with Europe, it could kill the effort and the confidence now developing. A decision of approval will give them impetus and lead toward success.

The decision of the President to send additional troops to Europe was courageous and right.[1] This Committee, the Congress, and the people of the United States have a difficult decision to make. A failure to act could well be the greatest surrender in history. I cannot believe that the United States—which more than any other nation holds the ability to tip the scales toward peace by deterring aggression, the ability to sustain the vitality and force of the democratic idea in the world—will fail.

I hope that the pending resolution will be defeated and that a majority of both parties will vote against it.

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26. SENATE CONCURRENT RESOLUTION 18 (82d Congress, 1st Session), APRIL 4, 1951[2]

Whereas the foreign policy and military strength of the United States are dedicated to the protection of our national security, the preservation of the liberties of the American people, and the maintenance of world peace; and

Whereas the North Atlantic Treaty, approved by the Senate by a vote of 82–13, is a major and historic act designed to build up the collective strength of the free peoples of the earth to resist aggression and to preserve world peace; and

Whereas the security of the United States and its citizens is involved with the security of its partners under the North Atlantic Treaty, and the commitments of that treaty are therefore an essential part of the foreign policy of the United States; and

Whereas article 3 of the North Atlantic Treaty pledges that the United States and the other parties thereto "separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack"; and

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[1] See the President's statement of Sept. 9, 1950; *supra*, p. 1504.

[2] *Congressional Record*, vol. 97, pp. 2363, 3294. S. Res. 99, adopted this same date, was identical in language to S. Con. Res. 18 with the substitution of the word "Senate" for "Congress" wherever it appears in the text, and with the omission of "Turkey and Greece" in paragraph 9. S. Con. Res. 18 was referred to the House Foreign Affairs Committee, Apr. 6, 1951. No additional parliamentary action was taken.

Whereas recent events have threatened world peace and as a result all parties to the North Atlantic Treaty are individually and collectively mobilizing their productive capacities and manpower for their self-defense; and

Whereas the free nations of Europe are vital centers of civilization, freedom, and production, and their subjugation by totalitarian forces would weaken and endanger the defensive capacity of the United States and the other free nations; and

Whereas the success of our common defense effort under a unified command requires the vigorous action and the full cooperation of all treaty partners in the supplying of materials and men on a fair and equitable basis, and General Eisenhower has testified that the "bulk" of the land forces should be supplied by our European allies and that such numbers supplied should be the "major fraction" of the total number:[1]

Now, therefore, be it

Resolved, That—

1. The Congress approves the action of the President of the United States in cooperating in the common defensive effort of the North Atlantic Treaty nations by designating, at their unanimous request, General of the Army Dwight D. Eisenhower as Supreme Allied Commander, Europe, and in placing Armed Forces of the United States in Europe under his command;

2. It is the belief of the Congress that the threat to the security of the United States and our North Atlantic Treaty partners makes it necessary for the United States to station abroad such units of our Armed Forces as may be necessary and appropriate to contribute our fair share of the forces needed for the joint defense of the North Atlantic area;

3. It is the sense of the Congress that the President of the United States as Commander in Chief of the Armed Forces, before taking action to send units of ground troops to Europe under article 3 of the North Atlantic Treaty, should consult the Secretary of Defense and the Joint Chiefs of Staff, the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Armed Services Committees of the Senate and the House of Representatives, and that he should likewise consult the Supreme Allied Commander, Europe;

4. It is the sense of the Congress that before sending units of ground troops to Europe under article 3 of the North Atlantic Treaty, the Joint Chiefs of Staff shall certify to the Secretary of Defense that in their opinion the parties to the North Atlantic Treaty are giving, and have agreed to give, full, realistic force and effect to the requirement of article 3 of said treaty that "by means of continuous and effective self-help and mutual aid" they will "maintain and develop their

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[1] This portion of General Eisenhower's testimony, given in executive session, was not printed in *Assignment of Ground Forces of the United States to Duty in the European Area: Hearings before the Committee on Foreign Relations and the Committee on Armed Services, United States Senate, 82d Congress, 1st Session, on .S Con. Res. 8, etc.*

individual and collective capacity to resist armed attack," specifically insofar as the creation of combat units is concerned;

5. The Congress herewith approves the understanding that the major contribution to the ground forces under General Eisenhower's command should be made by the European members of the North Atlantic Treaty, and that such units of United States ground forces as may be assigned to the above command shall be so assigned only after the Joint Chiefs of Staff certify to the Secretary of Defense that in their opinion such assignment is a necessary step in strengthening the security of the United States; and the certified opinions referred to in paragraphs 4 and 5 shall be transmitted by the Secretary of Defense to the President of the United States, and to the Senate Committees on Foreign Relations and Armed Services, and to the House Committees on Foreign Affairs and Armed Services as soon as they are received;

6. It is the sense of the Congress that, in the interests of sound constitutional processes, and of national unity and understanding, congressional approval should be obtained of any policy requiring the assignment of American troops abroad when such assignment is in implementation of article 3 of the North Atlantic Treaty; and the Congress hereby approves the present plans of the President and the Joint Chiefs of Staff to send four additional divisions of ground forces to Western Europe, but it is the sense of the Congress that no ground troops in addition to such four divisions should be sent to Western Europe in implementation of article 3 of the North Atlantic Treaty without further congressional approval;

7. It is the sense of the Congress that the President should submit to the Congress at intervals of not more than 6 months reports on the implementation of the North Atlantic Treaty, including such information as may be made available for this purpose by the Supreme Allied Commander, Europe;

8. It is the sense of the Congress that the United States should seek to eliminate all provisions of the existing treaty with Italy which impose limitations upon the military strength of Italy and prevent the performance by Italy of her obligations under the North Atlantic Treaty to contribute to the full extent of her capacity to the defense of Western Europe;

9. It is the sense of the Congress that consideration should be given to the revision of plans for the defense of Europe as soon as possible so as to provide for utilization on a voluntary basis of the military and other resources of Western Germany, Spain, Turkey, and Greece, but not exclusive of the military and other resources of other nations.

International Agreements on the Status of NATO

27. AGREEMENT BETWEEN THE PARTIES TO THE NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES, JUNE 19, 1951 [1]

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

ARTICLE I

1. In this Agreement the expression—

(*a*) "force" means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a "force" for the purposes of the present Agreement;

(*b*) "civilian component" means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located;

(*c*) "dependent" means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support;

(*d*) "sending State" means the Contracting Party to which the force belongs;

(*e*) "receiving State" means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit;

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[1] Treaties and Other International Acts Series (TIAS) 2846; 4 UST 1792. Ratification advised by the Senate, with a statement, July 15, 1953; ratified by the President, subject to the Senate statement, July 24, 1953; entered into force, Aug. 23, 1953. See also agreement of Sept. 20, 1951, regarding the status of NATO (TIAS 2992; 5 UST 1087) and protocol of Aug. 28, 1952, on the status of international military headquarters of NATO (TIAS 2978; 5 UST 870). For the report of the Senate Committee on Foreign Relations (Apr. 28, 1953) regarding all three agreements, see *infra*, pp. 1561–1581.

(*f*) "military authorities of the sending State" means those authorities of a sending State who are empowered by its law to enforce the military law of that State with respect to members of its forces or civilian components;

(*g*) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

2. This Agreement shall apply to the authorities of political sub-divisions of the Contracting Parties, within their territories to which the Agreement applies or extends in accordance with Article XX, as it applies to the central authorities of those Contracting Parties, provided, however, that property owned by political sub-divisions shall not be considered to be property owned by a Contracting Party within the meaning of Article VIII.

ARTICLE II

It is the duty of a force and its civilian component and the members thereof as well as their dependents to respect the law of the receiving State, and to abstain from any activity inconsistent with the spirit of the present Agreement, and, in particular, from any political activity in the receiving State. It is also the duty of the sending State to take necessary measures to that end.

ARTICLE III

1. On the conditions specified in paragraph 2 of this Article and subject to compliance with the formalities established by the receiving State relating to entry and departure of a force or the members thereof, such members shall be exempt from passport and visa regulations and immigration inspection on entering or leaving the territory of a receiving State. They shall also be exempt from the regulations of the receiving State on the registration and control of aliens, but shall not be considered as acquiring any right to permanent residence or domicile in the territories of the receiving State.

2. The following documents only will be required in respect of members of a force. They must be presented on demand:

(*a*) personal identity card issued by the sending State showing names, date of birth, rank and number (if any), service, and photograph;

(*b*) individual or collective movement order, in the language of the sending State and in the English and French languages, issued by an appropriate agency of the sending State or of the North Atlantic Treaty Organisation and certifying to the status of the individual or group as a member or members of a force and to the movement ordered. The receiving State may require a movement order to be countersigned by its appropriate representative.

3. Members of a civilian component and dependents shall be so described in their passports.

4. If a member of a force or of a civilian component leaves the employ of the sending State and is not repatriated, the authorities of the sending State shall immediately inform the authorities of the receiving State, giving such particulars as may be required. The authorities of the sending State shall similarly inform the authorities of the receiving State of any member who has absented himself for more than twenty-one days.

5. If the receiving State has requested the removal from its territory of a member of a force or civilian component or has made an expulsion order against an ex-member of a force or of a civilian component or against a dependent of a member or ex-member, the authorities of the sending State shall be responsible for receiving the person concerned within their own territory or otherwise disposing of him outside the receiving State. This paragraph shall apply only to persons who are not nationals of the receiving State and have entered the receiving State as members of a force or civilian component or for the purpose of becoming such members, and to the dependents of such persons.

ARTICLE IV

The receiving State shall either

(*a*) accept as valid, without a driving test or fee, the driving permit or licence or military driving permit issued by the sending State or a sub-division thereof to a member of a force or of a civilian component; or

(*b*) issue its own driving permit or licence to any member of a force or civilian component who holds a driving permit or licence or military driving permit issued by the sending State or a sub-division thereof, provided that no driving test shall be required.

ARTICLE V

1. Members of a force shall normally wear uniform. Subject to any arrangement to the contrary between the authorities of the sending and receiving States, the wearing of civilian dress shall be on the same conditions as for members of the forces of the receiving State. Regularly constituted units or formations of a force shall be in uniform when crossing a frontier.

2. Service vehicles of a force or civilian component shall carry, in addition to their registration number, a distinctive nationality mark.

ARTICLE VI

Members of a force may possess and carry arms, on condition that they are authorised to do so by their orders. The authorities of the sending State shall give sympathetic consideration to requests from the receiving State concerning this matter.

ARTICLE VII

1. Subject to the provisions of this Article,

(*a*) the military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;
(*b*) the authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependents with respect to offences committed within the territory of the receiving State and punishable by the law of that State.

2.—(*a*) The military authorities of the sending State shall have the right to exercise exclusive jurisdiction over persons subject to the military law of that State with respect to offences, including offences relating to its security, punishable by the law of the sending State, but not by the law of the receiving State.

(*b*) The authorities of the receiving State shall have the right to exercise exclusive jurisdiction over members of a force or civilian component and their dependents with respect to offences, including offences relating to the security of that State, punishable by its law but not by the law of the sending State.

(*c*) For the purposes of this paragraph and of paragraph 3 of this Article a security offence against a State shall include

(i) treason against the State;
(ii) sabotage, espionage or violation of any law relating to official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(*a*) The military authorities of the sending State shall have the primary right to exercise jurisdiction over a member of a force or of a civilian component in relation to

(i) offences solely against the property or security of that State, or offences solely against the person or property of another member of the force or civilian component of that State or of a dependent;
(ii) offences arising out of any act or omission done in the performance of official duty.

(*b*) In the case of any other offence the authorities of the receiving State shall have the primary right to exercise jurisdiction.
(*c*) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance.

4. The foregoing provisions of this Article shall not imply any right for the military authorities of the sending State to exercise jurisdiction over persons who are nationals of or ordinarily resident in the receiving State, unless they are members of the force of the sending State.

5.—(*a*) The authorities of the receiving and sending States shall assist each other in the arrest of members of a force or civilian component or their dependents in the territory of the receiving State and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(*b*) The authorities of the receiving State shall notify promptly the military authorities of the sending State of the arrest of any member of a force or civilian component or a dependent.

(*c*) The custody of an accused member of a force or civilian component over whom the receiving State is to exercise jurisdiction shall, if he is in the hands of the sending State, remain with that State until he is charged by the receiving State.

6.—(*a*) The authorities of the receiving and sending States shall assist each other in the carrying out of all necessary investigations into offences, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(*b*) The authorities of the Contracting Parties shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7.—(*a*) A death sentence shall not be carried out in the receiving State by the authorities of the sending State if the legislation of the receiving State does not provide for such punishment in a similar case.

(*b*) The authorities of the receiving State shall give sympathetic consideration to a request from the authorities of the sending State for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the sending State under the provision of this Article within the territory of the receiving State.

8. Where an accused has been tried in accordance with the provisions of this Article by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependent is prosecuted under the jurisdiction of a receiving State he shall be entitled—

(*a*) to a prompt and speedy trial;
(*b*) to be informed, in advance of trial, of the specific charge or charges made against him;

(*c*) to be confronted with the witnesses against him;
(*d*) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;
(*e*) to have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;
(*f*) if he considers it necessary, to have the services of a competent interpreter; and
(*g*) to communicate with a representative of the Government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

10.—(*a*) Regularly constituted military units or formations of a force shall have the right to police any camps, establishments or other premises which they occupy as the result of an agreement with the receiving State. The military police of the force may take all appropriate measures to ensure the maintenance of order and security on such premises.

(*b*) Outside these premises, such military police shall be employed only subject to arrangements with the authorities of the receiving State and in liaison with those authorities, and in so far as such employment is necessary to maintain discipline and order among the members of the force.

11. Each Contracting Party shall seek such legislation as it deems necessary to ensure the adequate security and protection within its territory of installations, equipment, property, records and official information of other Contracting Parties, and the punishment of persons who may contravene laws enacted for that purpose.

ARTICLE VIII

1. Each Contracting Party waives all its claims against any other Contracting Party for damage to any property owned by it and used by its land, sea or air armed services, if such damage—

(i) was caused by a member or an employee of the armed services of the other Contracting Party in the execution of his duties in connexion with the operation of the North Atlantic Treaty; or
(ii) arose from the use of any vehicle, vessel or aircraft owned by the other Contracting Party and used by its armed services, provided either that the vehicle, vessel or aircraft causing the damage was being used in connexion with the operation of the North Atlantic Treaty, or that the damage was caused to property being so used.

Claims for maritime salvage by one Contracting Party against any other Contracting Party shall be waived, provided that the vessel or cargo salved [salvaged] was owned by a Contracting Party and being used by its armed services in connexion with the operation of the North Atlantic Treaty.

2.—(*a*) In the case of damage caused or arising as stated in paragraph 1 to other property owned by a Contracting Party and located in its territory, the issue of the liability of any other Contracting Party shall be determined and the amount of damage shall be assessed, unless the Contracting Parties concerned agree otherwise, by a sole arbitrator selected in accordance with sub-paragraph (*b*) of this paragraph. The arbitrator shall also decide any counter-claims arising out of the same incident.

(*b*) The arbitrator referred to in sub-paragraph (*a*) above shall be selected by agreement between the Contracting Parties concerned from amongst the nationals of the receiving State who hold or have held high judicial office. If the Contracting Parties concerned are unable, within two months, to agree upon the arbitrator, either may request the Chairman of the North Atlantic Council Deputies to select a person with the aforesaid qualifications.

(*c*) Any decision taken by the arbitrator shall be binding and conclusive upon the Contracting Parties.

(*d*) The amount of any compensation awarded by the arbitrator shall be distributed in accordance with the provisions of paragraph 5 (*e*) (i), (ii) and (iii) of this Article.

(*e*) The compensation of the arbitrator shall be fixed by agreement between the Contracting Parties concerned and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by them.

(*f*) Nevertheless, each Contracting Party waives its claim in any such case where the damage is less than:—

Belgium: B.fr. 70,000.
Canada: $1,460.
Denmark: Kr. 9,670.
France: F.fr. 490,000.
Iceland: Kr. 22,800.
Italy: Li. 850,000.
Luxembourg: L.fr. 70,000.
Netherlands: Fl. 5,320.
Norway: Kr. 10,000.
Portugal: Es. 40,250.
United Kingdom: £500.
United States: $1,400.

Any other Contracting Party whose property has been damaged in the same incident shall also waive its claim up to the above amount. In the case of considerable variation in the rates of exchange between these currencies the Contracting Parties shall agree on the appropriate adjustments of these amounts.

3. For the purposes of paragraphs 1 and 2 of this Article the expression "owned by a Contracting Party" in the case of a vessel includes a vessel on bare boat charter to that Contracting Party or requisitioned by it on bare boat terms or seized by it in prize (except to the extent that the risk of loss or liability is borne by some person other than such Contracting Party).

4. Each Contracting Party waives all its claims against any other Contracting Party for injury or death suffered by any member of its armed services while such member was engaged in the performance of his official duties.

5. Claims (other than contractual claims and those to which paragraphs 6 or 7 of this Article apply) arising out of acts or omissions of members of a force or civilian component done in the performance

of official duty, or out of any other act, omission or occurrence for which a force or civilian component is legally responsible, and causing damage in the territory of the receiving State to third parties, other than any of the Contracting Parties, shall be dealt with by the receiving State in accordance with the following provisions:—

(*a*) Claims shall be filed, considered and settled or adjudicated in accordance with the laws and regulations of the receiving State with respect to claims arising from the activities of its own armed forces.

(*b*) The receiving State may settle any such claims, and payment of the amount agreed upon or determined by adjudication shall be made by the receiving State in its currency.

(*c*) Such payment, whether made pursuant to a settlement or to adjudication of the case by a competent tribunal of the receiving State, or the final adjudication by such a tribunal denying payment, shall be binding and conclusive upon the Contracting Parties.

(*d*) Every claim paid by the receiving State shall be communicated to the sending States concerned together with full particulars and a proposed distribution in conformity with sub-paragraphs (*e*) (i), (ii) and (iii) below. In default of a reply within two months, the proposed distribution shall be regarded as accepted.

(*e*) The cost incurred in satisfying claims pursuant to the preceding sub-paragraphs and paragraph 2 of this Article shall be distributed between the Contracting Parties, as follows:—

(i) Where one sending State alone is responsible, the amount awarded or adjudged shall be distributed in the proportion of 25 per cent. chargeable to the receiving State and 75 per cent. chargeable to the sending State.

(ii) Where more than one State is responsible for the damage, the amount awarded or adjudged shall be distributed equally among them: however, if the receiving State is not one of the States responsible, its contribution shall be half that of each of the sending States.

(iii) Where the damage was caused by the armed services of the Contracting Parties and it is not possible to attribute it specifically to one or more of those armed services, the amount awarded or adjudged shall be distributed equally among the Contracting Parties concerned: however, if the receiving State is not one of the States by whose armed services the damage was caused, its contribution shall be half that of each of the sending States concerned.

(iv) Every half-year, a statement of the sums paid by the receiving State in the course of the half-yearly period in respect of every case regarding which the proposed distribution on a percentage basis has been accepted, shall be sent to the sending States concerned, together with a request for reimbursement. Such reimbursement shall be made within the shortest possible time, in the currency of the receiving State.

(*f*) In cases where the application of the provisions of sub-paragraphs (*b*) and (*e*) of this paragraph would cause a Contracting Party serious hardship, it may request the North Atlantic Council to arrange a settlement of a different nature.

(*g*) A member of a force or civilian component shall not be subject to any proceedings for the enforcement of any judgment given against him in the receiving State in a matter arising from the performance of his official duties.

(*h*) Except in so far as sub-paragraph (*e*) of this paragraph applies to claims covered by paragraph 2 of this Article, the provisions of this paragraph shall not apply to any claim arising out of or in connexion with the navigation or operation of a ship or the loading, carriage, or discharge of a cargo, other than claims for death or personal injury to which paragraph 4 of this Article does not apply.

6. Claims against members of a force or civilian component arising out of tortious acts or omissions in the receiving State not done in the performance of official duty shall be dealt with in the following manner:—

(*a*) The authorities of the receiving State shall consider the claim and assess compensation to the claimant in a fair and just manner, taking into account all the circumstances of the case, including the conduct of the injured person, and shall prepare a report on the matter.

(*b*) The report shall be delivered to the authorities of the sending State, who shall then decide without delay whether they will offer an *ex gratia* payment, and if so, of what amount.

(*c*) If an offer of *ex gratia* payment is made, and accepted by the claimant in full satisfaction of his claim, the authorities of the sending State shall make the payment themselves and inform the authorities of the receiving State of their decision and of the sum paid.

(*d*) Nothing in this paragraph shall affect the jurisdiction of the courts of the receiving State to entertain an action against a member of a force or of a civilian component unless and until there has been payment in full satisfaction of the claim.

7. Claims arising out of the unauthorised use of any vehicle of the armed services of a sending State shall be dealt with in accordance with paragraph 6 of this Article, except in so far as the force or civilian component is legally responsible.

8. If a dispute arises as to whether a tortious act or omission of a member of a force or civilian component was done in the performance of official duty or as to whether the use of any vehicle of the armed services of a sending State was unauthorised, the question shall be submitted to an arbitrator appointed in accordance with paragraph 2 (*b*) of this Article, whose decision on this point shall be final and conclusive.

9. The sending State shall not claim immunity from the jurisdiction of the courts of the receiving State for members of a force or civilian

component in respect of the civil jurisdiction of the courts of the receiving State except to the extent provided in paragraph 5 (*g*) of this Article.

10. The authorities of the sending State and of the receiving State shall co-operate in the procurement of evidence for a fair hearing and disposal of claims in regard to which the Contracting Parties are concerned.

ARTICLE IX

1. Members of a force or of a civilian component and their dependents may purchase locally goods necessary for their own consumption, and such services as they need, under the same conditions as the nationals of the receiving State.

2. Goods which are required from local sources for the subsistence of a force or civilian component shall normally be purchased through the authorities which purchase such goods for the armed services of the receiving State. In order to avoid such purchases having any adverse effect on the economy of the receiving State, the competent authorities of that State shall indicate, when necessary, any articles the purchase of which should be restricted or forbidden.

3. Subject to agreements already in force or which may hereafter be made between the authorised representatives of the sending and receiving States, the authorities of the receiving State shall assume sole responsibility for making suitable arrangements to make available to a force or a civilian component the buildings and grounds which it requires, as well as facilities and services connected therewith. These agreements and arrangements shall be, as far as possible, in accordance with the regulations governing the accommodation and billeting of similar personnel of the receiving State. In the absence of a specific contract to the contrary, the laws of the receiving State shall determine the rights and obligations arising out of the occupation or use of the buildings, grounds, facilities or services.

4. Local civilian labour requirements of a force or civilian component shall be satisfied in the same way as the comparable requirements of the receiving State and with the assistance of the authorities of the receiving State through the employment exchanges. The conditions of employment and work, in particular wages, supplementary payments and conditions for the protection of workers, shall be those laid down by the legislation of the receiving State. Such civilian workers employed by a force or civilian component shall not be regarded for any purpose as being members of that force or civilian component.

5. When a force or a civilian component has at the place where it is stationed inadequate medical or dental facilities, its members and their dependents may receive medical and dental care, including hospitalisation, under the same conditions as comparable personnel of the receiving State.

6. The receiving State shall give the most favourable consideration to requests for the grant to members of a force or of a civilian component of travelling facilities and concessions with regard to fares.

These facilities and concessions will] be the subject of special arrangements to be made between the Governments concerned.

7. Subject to any general or particular financial arrangements between the Contracting Parties, payment in local currency for goods, accommodation and services furnished under paragraphs 2, 3, 4 and, if necessary, 5 and 6, of this Article shall be made promptly by the authorities of the force.

8. Neither a force, nor a civilian component, nor the members thereof, nor their dependents, shall by reason of this Article enjoy any exemption from taxes or duties relating to purchases and services chargeable under the fiscal regulations of the receiving State.

ARTICLE X

1. Where the legal incidence of any form of taxation in the receiving State depends upon residence or domicile, periods during which a member of a force or civilian component is in the territory of that State by reason solely of his being a member of such force or civilian component shall not be considered as periods of residence therein, or as creating a change of residence or domicile, for the purposes of such taxation. Members of a force or civilian component shall be exempt from taxation in the receiving State on the salary and emoluments paid to them as such members by the sending State or on any tangible movable property the presence of which in the receiving State is due solely to their temporary presence there.

2. Nothing in this Article shall prevent taxation of a member of a force or civilian component with respect to any profitable enterprise, other than his employment as such member, in which he may engage in the receiving State, and, except as regards his salary and emoluments and the tangible movable property referred to in paragraph 1, nothing in this Article shall prevent taxation to which, even if regarded as having his residence or domicile outside the territory of the receiving State, such a member is liable under the law of that State.

3. Nothing in this Article shall apply to "duty" as defined in paragraph 12 of Article XI.

4. For the purposes of this Article the term "member of a force" shall not include any person who is a national of the receiving State.

ARTICLE XI

1. Save as provided expressly to the contrary in this Agreement, members of a force and of a civilian component as well as their dependents shall be subject to the laws and regulations administered by the customs authorities of the receiving State. In particular the customs authorities of the receiving State shall have the right, under the general conditions laid down by the laws and regulations of the receiving State, to search members of a force or civilian component and their dependents and to examine their luggage and vehicles, and to seize articles pursuant to such laws and regulations.

2.—(*a*) The temporary importation and the re-exportation of service vehicles of a force or civilian component under their own power shall be authorised free of duty on presentation of a triptyque in the form shown in the Appendix to this Agreement.[1]

(*b*) The temporary importation of such vehicles not under their own power shall be governed by paragraph 4 of this Article and the re-exportation thereof by paragraph 8.

(*c*) Service vehicles of a force or civilian component shall be exempt from any tax payable in respect of the use of vehicles on the roads.

3. Official documents under official seal shall not be subject to customs inspection. Couriers, whatever their status, carrying these documents must be in possession of an individual movement order, issued in accordance with paragraph 2 (*b*) of Article III. This movement order shall show the number of despatches carried and certify that they contain only official documents.

4. A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a certificate in a form agreed between the receiving State and the sending State signed by a person authorised by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State.

5. A member of a force or civilian component may, at the time of his first arrival to take up service in the receiving State or at the time of the first arrival of any dependent to join him, import his personal effects and furniture free of duty for the term of such service.

6. Members of a force or civilian component may import temporarily free of duty their private motor vehicles for the personal use of themselves and their dependents. There is no obligation under this Article to grant exemption from taxes payable in respect of the use of roads by private vehicles.

7. Imports made by the authorities of a force other than for the exclusive use of that force and its civilian component, and imports, other than those dealt with in paragraphs 5 and 6 of this Article, effected by members of a force or civilian component are not, by reason of this Article, entitled to any exemption from duty or other conditions.

8. Goods which have been imported duty-free under paragraphs 2 (*b*), 4, 5 or 6 above—

(*a*) may be re-exported freely, provided that, in the case of goods imported under paragraph 4, a certificate, issued in accordance with that paragraph, is presented to the customs office: the customs authorities, however, may verify that goods re-exported are as described in the certificate, if any, and have in fact been imported under the conditions of paragraphs 2 (*b*), 4, 5 or 6 as the case may be;

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[1] Not reprinted here.

(*b*) shall not normally be disposed of in the receiving State by way of either sale or gift: however, in particular cases such disposal may be authorised on conditions imposed by the authorities concerned of the receiving State (for instance, on payment of duty and tax and compliance with the requirements of the controls of trade and exchange).

9. Goods purchased in the receiving State shall be exported therefrom only in accordance with the regulations in force in the receiving State.

10. Special arrangements for crossing frontiers shall be granted by the customs authorities to regularly constituted units or formations, provided that the customs authorities concerned have been duly notified in advance.

11. Special arrangements shall be made by the receiving State so that fuel, oil and lubricants for use in service vehicles, aircraft and vessels of a force or civilian component, may be delivered free of all duties and taxes.

12. In paragraphs 1–10 of this Article—

"duty" means customs duties and all other duties and taxes payable on importation or exportation, as the case may be, except dues and taxes which are no more than charges for services rendered;

"importation" includes withdrawal from customs warehouses or continuous customs custody, provided that the goods concerned have not been grown, produced or manufactured in the receiving State.

13. The provisions of this Article shall apply to the goods concerned not only when they are imported into or exported from the receiving State, but also when they are in transit through the territory of a Contracting Party, and for this purpose the expression "receiving State" in this Article shall be regarded as including any Contracting Party through whose territory the goods are passing in transit.

ARTICLE XII

1. The customs or fiscal authorities of the receiving State may, as a condition of the grant of any customs or fiscal exemption or concession provided for in this Agreement, require such conditions to be observed as they may deem necessary to prevent abuse.

2. These authorities may refuse any exemption provided for by this Agreement in respect of the importation into the receiving State of articles grown, produced or manufactured in that State which have been exported therefrom without payment of, or upon repayment of, taxes or duties which would have been chargeable but for such exportation. Goods removed from a customs warehouse shall be deemed to be imported if they were regarded as having been exported by reason of being deposited in the warehouse.

ARTICLE XIII

1. In order to prevent offences against customs and fiscal laws and regulations, the authorities of the receiving and of the sending States shall assist each other in the conduct of enquiries and the collection of evidence.

2. The authorities of a force shall render all assistance within their power to ensure that articles liable to seizure by, or on behalf of, the customs or fiscal authorities of the receiving State are handed to those authorities.

3. The authorities of a force shall render all assistance within their power to ensure the payment of duties, taxes and penalties payable by members of the force or civilian component or their dependents.

4. Service vehicles and articles belonging to a force or to its civilian component, and not to a member of such force or civilian component, seized by the authorities of the receiving State in connexion with an offence against its customs or fiscal laws or regulations shall be handed over to the appropriate authorities of the force concerned.

ARTICLE XIV

1. A force, a civilian component and the members thereof, as well as their dependents, shall remain subject to the foreign exchange regulations of the sending State and shall also be subject to the regulations of the receiving State.

2. The foreign exchange authorities of the sending and the receiving States may issue special regulations applicable to a force or civilian component or the members thereof as well as to their dependents.

ARTICLE XV

1. Subject to paragraph 2 of this Article, this Agreement shall remain in force in the event of hostilities to which the North Atlantic Treaty applies, except that the provisions for settling claims in paragraphs 2 and 5 of Article VIII shall not apply to war damage, and that the provisions of the Agreement, and, in particular of Articles III and VII, shall immediately be reviewed by the Contracting Parties concerned, who may agree to such modifications as they may consider desirable regarding the application of the Agreement between them.

2. In the event of such hostilities, each of the Contracting Parties shall have the right, by giving 60 days' notice to the other Contracting Parties, to suspend the application of any of the provisions of this Agreement so far as it is concerned. If this right is exercised, the Contracting Parties shall immediately consult with a view to agreeing on suitable provisions to replace the provisions suspended.

ARTICLE XVI

All differences between the Contracting Parties relating to the interpretation or application of this Agreement shall be settled by negotiation between them without recourse to any outside jurisdiction. Except where express provision is made to the contrary in this Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE XVII

Any Contracting Party may at any time request the revision of any Article of this Agreement. The request shall be addressed to the North Atlantic Council.

ARTICLE XVIII

1. The present Agreement shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Government of the United States of America, which shall notify each signatory State of the date of deposit thereof.

2. Thirty days after four signatory States have deposited their instruments of ratification the present Agreement shall come into force between them.[1] It shall come into force for each other signatory State thirty days after the deposit of its instrument of ratification.[2]

3. After it has come into force, the present Agreement shall, subject to the approval of the North Atlantic Council and to such conditions as it may decide, be open to accession on behalf of any State which accedes to the North Atlantic Treaty.[3] Accession shall be effected by the deposit of an instrument of accession with the Government of the United States of America, which shall notify each signatory and acceding State of the date of deposit thereof. In respect of any State on behalf of which an instrument of accession is deposited, the present Agreement shall come into force thirty days after the date of the deposit of such instrument.

ARTICLE XIX

1. The present Agreement may be denounced by any Contracting Party after the expiration of a period of four years from the date on which the Agreement comes into force.

2. The denunciation of the Agreement by any Contracting Party shall be effected by a written notification addressed by that Contracting Party to the Government of the United States of America which shall notify all the other Contracting Parties of each such notification and the date of receipt thereof.

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[1] The United States deposited its instrument of ratification, July 24, 1953. Three other signatories had deposited their ratification instruments on the following dates: France, Sept. 29, 1952; Norway, Feb. 24, 1953; and Belgium, Feb. 27, 1953. The agreement therefore entered into force with respect to these four states on Aug. 23, 1953—i. e., 30 days after the deposit of the fourth instrument of ratification (that of the United States).

[2] The remaining signatories deposited their instruments of ratification on the following dates: Canada, Aug. 28, 1953; the Netherlands, Nov. 18, 1953; Luxembourg, Mar. 19, 1954; the United Kingdom, May 13, 1954; Denmark, May 28, 1955; Portugal, Nov. 22, 1955; and Italy, Dec. 22, 1955. As of the end of calendar year 1955, Iceland had not deposited a ratification instrument.

[3] Turkey and Greece acceded to the agreement, May 18 and July 26, 1954, respectively. As of the end of calendar year 1955, the Federal Republic of Germany had not acceded to the agreement.

3. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America. After the expiration of this period of one year, the Agreement shall cease to be in force as regards the Contracting Party which denounces it, but shall continue in force for the remaining Contracting Parties.

ARTICLE XX

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the present Agreement shall apply only to the metropolitan territory of a Contracting Party.

2. Any State may, however, at the time of the deposit of its instrument of ratification or accession or at any time thereafter, declare by notification given to the Government of the United States of America that the present Agreement shall extend (subject, if the State making the declaration considers it to be necessary, to the conclusion of a special agreement between that State and each of the sending States concerned), to all or any of the territories for whose international relations it is responsible in the North Atlantic Treaty area. The present Agreement shall then extend to the territory or territories named therein thirty days after the receipt by the Government of the United States of America of the notification, or thirty days after the conclusion of the special agreements if required, or when it has come into force under Article XVIII, whichever is the later.

3. A State which has made a declaration under paragraph 2 of this Article extending the present Agreement to any territory for whose international relations it is responsible may denounce the Agreement separately in respect of that territory in accordance with the provisions of Article XIX.

In witness whereof the undersigned Plenipotentiaries have signed the present Agreement.

Done in London this nineteenth day of June, 1951, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

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28. AGREEMENT ON THE STATUS OF THE NORTH ATLANTIC TREATY ORGANIZATION, NATIONAL REPRESENTATIVES AND INTERNATIONAL STAFF, SEPTEMBER 20, 1951 [1]

The States signatory to the present Agreement,

Considering that for the exercise of their functions and the fulfilment of their purposes it is necessary that the North Atlantic Treaty Organisation, its international staff and the representatives of Member States attending meetings thereof should have the status set out hereunder,

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[1] TIAS 2992; 5 UST 1087.

Have agreed as follows:

Part I.—General

ARTICLE 1

In the present Agreement,

(*a*) "the Organisation" means the North Atlantic Treaty Organisation consisting of the Council and its subsidiary bodies;[1]

(*b*) "the Council" means the Council established under Article 9 of the North Atlantic Treaty and the Council Deputies;[2]

(*c*) "subsidiary bodies" means any organ, committee or service established by the Council or under its authority, except those to which, in accordance with Article 2, this Agreement does not apply;

(*d*) "Chairman of the Council Deputies" includes, in his absence, the Vice-Chairman acting for him.

ARTICLE 2

The present Agreement shall not apply to any military headquarters established in pursuance of the North Atlantic Treaty[3] nor, unless the Council decides otherwise, to any other military bodies.

ARTICLE 3

The Organisation and Member States shall co-operate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connexion with the immunities and privileges set out in the present Agreement. If any Member State considers that there has been an abuse of any immunity or privilege conferred by this Agreement, consultations shall be held between that State and the Organisation, or between the States concerned, to determine whether any such abuse has occurred, and, if so, to attempt to ensure that no repetition occurs. Notwithstanding the foregoing or any other provisions of this Agreement, a Member State which considers that any person has abused his privilege of residence or any other privilege or immunity granted to him under this Agreement may require him to leave its territory.

Part II.—The Organisation

ARTICLE 4

The Organisation shall possess juridical personality; it shall have the capacity to conclude contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings.

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[1] For the organization of the North Atlantic Council and its subsidiary bodies as of the date of the signature of this agreement, see the May 5, 1951, communiqué of the NAC Deputies; *infra*, pp. 1609–1612.

[2] For the text of the North Atlantic Treaty of Apr. 4, 1949, see *supra*, pp. 812–815.

[3] See the Protocol of Aug. 28, 1952, on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty; *infra*, doc. 30.

ARTICLE 5

The Organisation, its property and assets, wheresoever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Chairman of the Council Deputies, acting on behalf of the Organisation, may expressly authorise the waiver of this immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution or detention of property.

ARTICLE 6

The premises of the Organisation shall be inviolable. Its property and assets, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of interference.

ARTICLE 7

The archives of the Organisation and all documents belonging to it or held by it shall be inviolable, wherever located.

ARTICLE 8

1. Without being restricted by financial controls, regulations or moratoria of any kind,

(*a*) the Organisation may hold currency of any kind and operate accounts in any currency;

(*b*) the Organisation may freely transfer its funds from one country to another or within any country and convert any currency held by it into any other currency at the most favourable official rate of exchange for a sale or purchase as the case may be.

2. In exercising its rights under paragraph 1 above, the Organisation shall pay due regard to any representations made by any Member State and shall give effect to such representations in so far as it is practicable to do so.

ARTICLE 9

The Organisation, its assets, income and other property shall be exempt:

(*a*) from all direct taxes; the Organisation will not, however, claim exemption from rates, taxes or dues which are no more than charges for public utility services;

(*b*) from all customs duties and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organisation for its official use; articles imported under such exemption shall not be disposed of, by way either of sale or gift, in the country into which they are imported except under conditions approved by the Government of that country;

(*c*) from all customs duties and quantitative restrictions on imports and exports in respect of its publications.

ARTICLE 10

While the Organisation will not as a general rule claim exemption rom excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless, when the Organisation is making important purchases for official use f property on which such duties and taxes have been charged or are hargeable, Member States will whenever possible make the appropriate administrative arrangments for the remission or return of the amount of duty or tax.

ARTICLE 11

1. No censorship shall be applied to the official correspondence and other official communications of the Organisation.

2. The Organisation shall have the right to use codes and to despatch and receive correspondence by courièr or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

3. Nothing in this Article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Council acting on behalf of the Organisation.

Part III.—Representatives of Member States

ARTICLE 12

Every person designated by a Member State as its principal permanent representative to the Organisation in the territory of another Member State, and such members of his official staff resident in that territory as may be agreed between the State which has designated them and the Organisation and between the Organisation and the State in which they will be resident, shall enjoy the immunities and privileges accorded to diplomatic representatives and their official staff of comparable rank.

ARTICLE 13

1. Any representative of a Member State to the Council or any of its subsidiary bodies who is not covered by Article 12 shall, while present in the territory of another Member State for the discharge of his duties, enjoy the following privileges and immunities:

(*a*) the same immunity from personal arrest or detention as that accorded to diplomatic personnel of comparable rank;

(*b*) in respect of words spoken or written and of acts done by him in his official capacity, immunity from legal process;

(*c*) inviolability for all papers and documents;

(*d*) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;

(*e*) the same exemption in respect of himself and his spouse from immigration restrictions, aliens registration and national service obligations as that accorded to diplomatic personnel of comparable rank;

(*f*) the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

(*g*) the same immunities and facilities in respect of his personal baggage as are accorded to diplomatic personnel of comparable rank;

(*h*) the right to import free of duty his furniture and effects at the time of first arrival to take up his post in the country in question, and, on the termination of his functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

(*i*) the right to import temporarily free of duty his private motor vehicle for his own personal use and subsequently to re-export such vehicle free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

2. Where the legal incidence of any form of taxation depends upon residence, a period during which a representative to whom this Article applies is present in the territory of another Member State for the discharge of his duties shall not be considered as a period of residence. In particular, he shall be exempt from taxation on his official salary and emoluments during such periods of duty.

3. In this Article "representative" shall be deemed to include all representatives, advisers and technical experts of delegations. Each Member State shall communicate to the other Member States concerned, if they so request, the names of its representatives to whom this Article applies and the probable duration of their stay in the territories of such other Member States.

ARTICLE 14

Official clerical staff accompanying a representative of a Member State who are not covered by Articles 12 or 13 shall, while present in the territory of another Member State for the discharge of their duties, be accorded the privileges and immunities set out in paragraph 1 (*b*), (*c*), (*e*), (*f*), (*h*) and (*i*) and paragraph 2 of Article 13.

ARTICLE 15

Privileges and immunities are accorded to the representatives of Member States and their staffs not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the North Atlantic Treaty. Consequently, a Member State not only has the right, but is under a duty to waive the immunity of its representatives and members of their staffs in any case where, in its opinion, the immunity would impede the course of justice and can be waived without prejudice to the purposes for which the immunity is accorded.

ARTICLE 16

The provisions of Articles 12 to 14 above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national or to any person as its representative or as a member of the staff of such representative.

Part IV.—International Staff and Experts on Missions for the Organisation

ARTICLE 17

The categories of officials of the Organisation to which Articles 18 to 20 apply shall be agreed between the Chairman of the Council Deputies and each of the Member States concerned. The Chairman of the Council Deputies shall communicate to the Member States the names of the officials included in these categories.

ARTICLE 18

Officials of the Organisation agreed upon under Article 17 shall:

(*a*) be immune from legal process in respect of words spoken or written and of acts done by them in their official capacity and within the limits of their authority;

(*b*) be granted, together with their spouses and members of their immediate families residing with and dependent on them, the same immunities from immigration restrictions and aliens' registration as is accorded to diplomatic personnel of comparable rank;

(*c*) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to diplomatic personnel of comparable rank;

(*d*) be given, together with their spouses and members of their immediate families residing with and dependent on them, the same repatriation facilities in time of international crisis as are accorded to diplomatic personnel of comparable rank;

(*e*) have the right to import free of duty their furniture and effects at the time of first arrival to take up their post in the country in question, and, on the termination of their functions in that country, to re-export such furniture and effects free of duty, subject in either case to such conditions as the Government of the country in which the right is being exercised may deem necessary;

(*f*) have the right to import temporarily free of duty their private motor vehicles for their own personal use and subsequently to re-export such vehicles free of duty, subject in either case to such conditions as the Government of the country concerned may deem necessary.

ARTICLE 19

Officials of the Organisation agreed under Article 17 shall be exempt from taxation on the salaries and emoluments paid to them by the Organisation in their capacity as such officials. Any Member State may, however, conclude an arrangement with the Council acting on behalf of the Organisation whereby such Member State will employ and assign to the Organisation all of its nationals (except, if such Member State so desires, any not ordinarily resident within its territory) who are to serve on the international staff of the Organisation and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it.[1] The salaries and emoluments so paid may be taxed by such Member State but shall be exempt from taxation by any other Member State. If such an arrangement is entered into by any Member State and is subsequently modified or terminated, Member States shall no longer be bound under the first sentence of this Article to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 20

In addition to the immunities and privileges specified in Articles 18 and 19, the Executive Secretary of the Organisation, the Co-ordinator of North Atlantic Defense Production, and such other permanent officials of similar rank as may be agreed between the Chairman of the Council Deputies and the Governments of Member States, shall be accorded the privileges and immunities normally accorded to diplomatic personnel of comparable rank.

ARTICLE 21

1. Experts (other than officials coming within the scope of Articles 18 to 20) employed on missions on behalf of the Organisation shall be accorded the following privileges and immunities so far as is necessary for the effective exercise of their functions while present in the territory of a Member State for the discharge of their duties:

(*a*) immunity from personal arrest or detention and from seizure of their personal baggage;

(*b*) in respect of words spoken or written or acts done by them in the performance of their official functions for the Organisation, immunity from legal process;

(*c*) the same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign Governments on temporary official missions;

(*d*) inviolability for all papers and documents relating to the work on which they are engaged for the Organisation.

2. The Chairman of the Council Deputies shall communicate to the Member States concerned the names of any experts to whom this Article applies.

ARTICLE 22

Privileges and immunities are granted to officials and experts in the interests of the Organisation and not for the personal benefit of the individuals themselves. The Chairman of the Council Deputies shall have the right and the duty to waive the immunity of any official or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organisation.

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[1] For the text of the agreement between the United States and the North Atlantic Council negotiated under the provisions of this article, see *infra*.

ARTICLE 23

The provisions of Articles 18, 20 and 21, above shall not require any State to grant any of the privileges or immunities referred to therein to any person who is its national, except:

(*a*) immunity from legal process in respect of words spoken or written or acts done by him in the performance of his official functions for the Organisation;

(*b*) inviolability for all papers and documents relating to the work on which he is engaged for the Organisation;

(*c*) facilities in respect of currency or exchange restrictions so far as necessary for the effective exercise of his functions.

Part V.—Settlement of Disputes

ARTICLE 24

The Council shall make provision for appropriate modes of settlement of:

(*a*) disputes arising out of contracts or other disputes of a private character to which the Organisation is a party;

(*b*) disputes involving any official or expert of the Organisation to whom Part IV of this Agreement applies who by reason of his official position enjoys immunity, if immunity has not been waived in accordance with the provisions of Article 22.

Part VI.—Supplementary Agreements

ARTICLE 25

The Council acting on behalf of the Organisation may conclude with any Member State or States supplementary agreements modifying the provisions of the present Agreement, so far as that State or those States are concerned.

Part VII.—Final Provisions

ARTICLE 26

1. The present Agreement shall be open for signature by Member States of the Organisation and shall be subject to ratification. Instruments of ratification shall be deposited with the Government of the United States of America, which will notify all signatory States of each such deposit.

2. As soon as six signatory States have deposited their instruments of ratification, the present Agreement shall come into force in respect

of those States.[1] It shall come into force in respect of each other signatory State, on the date of the deposit of its instrument of ratification.[2]

ARTICLE 27

The present Agreement may be denounced by any Contracting State by giving written notification of denunciation to the Government of the United States of America, which will notify all signatory States of each such notification. The denunciation shall take effect one year after the receipt of the notification by the Government of the United States of America.

In witness whereof the undersigned plenipotentiaries have signed the present Agreement.

Done in Ottawa this twentieth day of September, 1951, in French and in English, both texts being equally authoritative, in a single copy which shall be deposited in the archives of the Government of the United States of America which will transmit a certified copy to each of the signatory States.

. . . .

29. AGREEMENT BETWEEN THE UNITED STATES AND THE NORTH ATLANTIC TREATY ORGANIZATION RESPECTING SERVICE OF UNITED STATES NATIONALS IN THE ORGANIZATION, SEPTEMBER 29, 1951[3]

Since the Government of the United States desires to enter into an arrangement with the North Atlantic Council, acting on behalf of the North Atlantic Treaty Organisation, as provided in Article 19 of the Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff signed at Ottawa, Canada, September 20, 1951,[4] it is, therefore, agreed by the Government of the United States and the North Atlantic Council Deputies, acting on behalf of the North Atlantic Treaty Organisation, as follows:

1. Whenever the Organisation desires the services of a United States national, it will notify the Deputy United States Representa-

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[1] The agreement entered into force, May 18, 1954, with the deposit of an instrument of ratification by Turkey, the sixth of the signatory states to do so. Up to and including the date of its entry into force the following states had deposited instruments of ratification: Denmark, May 7, 1952; the Netherlands, July 14, 1952; Norway, Feb. 24, 1953; Iceland, May 11, 1953; the United States, July 24, 1953; and Turkey, May 18, 1954.

[2] The agreement subsequently entered into force with respect to the following signatory countries with the date of their deposit of instruments of ratification: Luxembourg, July 23, 1954; Canada, Sept. 1, 1954; the United Kingdom, Dec. 10, 1954; France, Jan. 20, 1955; Belgium, Feb. 18, 1955; Italy, Mar. 9, 1955; Portugal (with a reservation), Nov. 22, 1955; and Greece, Dec. 10, 1956. The Federal Republic of Germany signed the agreement May 29, 1956; as of the end of calendar year 1956, its instrument of ratification had not been deposited.

[3] TIAS 2992, pp. 24–25; 5 UST 1112.

[4] *Supra.*

tive, North Atlantic Council of: (A) The nature of the position to be filled, (B) The qualifications which an individual must possess to fill the position, and (C) The salary which such individual would receive if employed by the North Atlantic Treaty Organisation. The Organisation may notify the Government of the United States of the name(s) of any individual(s) it deems acceptable for the position.

2. The Government of the United States may assign to the Organisation a United States national from its Government service who is acceptable to the Organisation. The Government of the United States will provide security clearance for the individual concerned.

3. The Government of the United States will pay any and all salaries and emoluments of United States nationals, who are employed by it and assigned to the Organisation, from its own funds at rates determined by the Government of the United States.

4. The Organisation agrees that it will not pay salaries and emoluments to any citizen of the United States.

5. The Organisation will credit to the United States the amounts of salaries and emoluments which would otherwise have been paid by the Organisation to United States nationals and will deduct the total of such credits for each fiscal year from the amount assessed the Government of the United States by the Organisation, in respect of the annual contribution of the Government of the United States for the subsequent fiscal year.

IN WITNESS WHEREOF, This Agreement is executed at London on this 29th day of September, 1951, by Sir F. R. Hoyer Millar, Vice-Chairman of the North Atlantic Council Deputies, on behalf of the North Atlantic Treaty Organisation, and by Charles M. Spofford, United States Deputy Representative to the North Atlantic Council, on behalf of the Government of the United States.

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30. PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEADQUARTERS SET UP PURSUANT TO THE NORTH ATLANTIC TREATY, AUGUST 28, 1952 [1]

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed in London on 19th June 1951, regarding the Status of their Forces: [2]

ARTICLE I

In the present Protocol the expression

(*a*) "the Agreement" means the Agreement signed in London on

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[1] TIAS 2978; 5 UST 870.

[2] *Supra*, doc. 27.

19th June, 1951, by the Parties to the North Atlantic Treaty regarding the Status of their Forces;

(*b*) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe, Headquarters of the Supreme Allied Commander Atlantic and any equivalent international military Headquarters set up pursuant to the North Atlantic Treaty;

(*c*) "Allied Headquarters" means any Supreme Headquarters and any international military Headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a Supreme Headquarters;

(*d*) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.[1]

ARTICLE 2

Subject to the following provisions of this Protocol, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (*a*), (*b*) and (*c*) of paragraph 1 of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3

1. For the purpose of applying the Agreement to an Allied Headquarters the expressions "force", "civilian component" and "dependent", wherever they occur in the Agreement, shall have the meanings set out below:

(*a*) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;

(*b*) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;

(*c*) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (*a*) and (*b*) of this paragraph, or a child of such member depending on him or her for support.

2. An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, paragraph 10 of Article VII, paragraphs 2, 3, 4, 7 and 8 of Article IX, and Article XIII, of the Agreement.

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[1] For the text of the North Atlantic Treaty, see *supra*, pp. 812–815.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect to its forces or their civilian components or dependents shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attach to the appropriate Supreme Headquarters and the authorities responsible under it, except that

(*a*) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall be vested in the military authorities of the State, if any, to whose military law the person concerned is subject;

(*b*) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5(*a*) and 6(*a*) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned;

(*c*) for the purposes of paragraphs 2(*a*) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;

(*d*) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach to the State to whose armed service the person belongs whose act or omission has given rise to the claim or, in the case of a member of a civilian component, to the State by whose armed service he is employed or, if there is no such State, to the Allied Headquarters of which the person concerned is a member.

Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, number (if any), photograph and period of validity. This card must be presented on demand.

ARTICLE 6

1. The obligations to waive claims imposed on the Contracting Parties by Article VIII of the Agreement shall attach both to the Allied Headquarters and to any Party to this Protocol concerned.

2. For the purposes of paragraphs 1 and 2 of Article VIII of the Agreement,

(*a*) property owned by an Allied Headquarters or by a Party to this Protocol and used by an Allied Headquarters shall be deemed to be property owned by a Contracting Party and used by its armed services;

(*b*) damage caused by a member of a force or civilian component as defined in paragraph 1 of Article 3 of this Protocol or by any other employee of an Allied Headquarters shall be deemed to be damage caused by a member or employee of the armed services of a Contracting Party;

(*c*) the definition of the expression "owned by a Contracting Party" in paragraph 3 of Article VIII shall apply in respect of an Allied Headquarters.

3. The claims to which paragraph 5 of Article VIII of the Agreement applies shall include claims (other than contractual claims and claims to which paragraphs 6 or 7 of that Article apply) arising out of acts or omissions of any employees of an Allied Headquarters, or out of any other act, omission or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving State to third parties, other than any of the Parties to this Protocol.

ARTICLE 7

1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters within the definitions in paragraph 1 (*a*) and (*b*) (i) of Article 3 of this Protocol, to salaries and emoluments paid to them as such personnel by the armed service to which they belong or by which they are employed, except that this paragraph shall not exempt any such member or employee from taxation imposed by a State of which he is a national.

2. Employees of an Allied Headquarters of categories agreed by the North Atlantic Council, shall be exempted from taxation on the salaries and emoluments paid to them by the Allied Headquarters in their capacity as such employees. Any Party to the present Protocol may, however, conclude an arrangement with the Allied Headquarters whereby such Party will employ and assign to the Allied Headquarters all of its nationals (except, if such Party so desires, any not ordinarily resident within its territory) who are to serve on the staff of the Allied Headquarters and pay the salaries and emoluments of such persons from its own funds, at a scale fixed by it. The salaries and emoluments so paid may be taxed by the Party concerned but shall be exempted from taxation by any other Party. If such an arrangement is entered into by any Party to the present Protocol and is subsequently modified or terminated, Parties to the present Protocol shall no longer be bound under the first sentence of this paragraph to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 8

1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes, affecting expenditures by them in the interest of common defense and for their official and exclusive benefit, and each Party to the present Protocol shall enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. An Allied Headquarters shall have the rights granted to a force under Article XI of the Agreement subject to the same conditions.

3. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving States, unless such nationals belong to the armed services of a Party to this Protocol other than the receiving State.

4. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 9

Except in so far as the North Atlantic Council may decide otherwise,

(*a*) any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required by the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters. The receiving State shall have the prior right to acquire any immovable property so disposed of in its territory, provided that it offers terms no less favourable than those offered by any third party;

(*b*) any land, buildings or fixed installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State resulting from its use by the Headquarters shall be determined by the North Atlantic Council (taking into consideration any applicable law of the receiving State) and distributed among or credited or debited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

ARTICLE 10

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 11

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purposes of paragraph 6 (*a*) of Article VII and Article XIII of the Agreement.

ARTICLE 12

1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of an Allied Headquarters, facilitate transfers of the funds of such Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 13

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 14

1. The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any international military Headquarters or organisation (not included in the definitions in paragraphs (*b*) and (*c*) of Article 1 of this Protocol) which is established pursuant to the North Atlantic Treaty.

2. When the European Defence Community comes into being,[1] the present Protocol may be applied to the personnel of the European Defence Forces attached to an Allied Headquarters and their dependents at such time and in such manner as may be determined by the North Atlantic Council.

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[1] See *supra*, pp. 1107–1150.

ARTICLE 15

All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 16

1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters,[1] and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification,[2] to any provisions of this Protocol or of the Agreement as applied by it.

In witness whereof the undersigned Plenipotentiaries have signed the present Protocol.

Done in Paris this 28th day of August 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

. . . .

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[1] For the bilateral agreement between the United States and the North Atlantic Council (acting for Supreme Headquarters), see *infra*.

[2] The protocol entered into force Apr. 10, 1954 (i.e., 30 days after the deposit of an instrument of ratification by Belgium, Mar. 11, 1954, the fourth signatory state to do so). Up to and including the date of entry into force instruments of ratification had been deposited by Norway, Feb. 24, 1953; Iceland, May 11, 1953; the United States, July 24, 1953; and Belgium, Mar. 11, 1954. Instruments of ratification were subsequently deposited by Turkey, May 18, 1954; the Netherlands, June 22, 1954; Luxembourg, July 23, 1954; Greece, July 26, 1954; France, Jan. 20, 1955; Denmark, May 22, 1955; Portugal, Nov. 22, 1955; and Italy, Dec. 22, 1955. As of the end of calendar year 1956 no additional instruments had been deposited. (N. B. By the terms of article 16 of the Protocol the ratification and entry into force provisions of the Status of Forces Agreement of June 19, 1951, applied to the Protocol.)

31. AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE NORTH ATLANTIC COUNCIL CONCERNING THE EMPLOYMENT BY INTERNATIONAL MILITARY HEADQUARTERS OF UNITED STATES NATIONALS, FEBRUARY 25, 1953[1]

Since the Government of the United States desires to enter into an arrangement with International Military Headquarters to which the Protocol to the Agreement Between the Parties to the North Atlantic Treaty on the Status of Their Forces on International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 20 [28], 1952,[2] applies, as provided in Article 7 of that Protocol, it is therefore agreed by the Government of the United States and the North Atlantic Council, acting on behalf of such Headquarters, as follows:

1. Whenever any International Military Headquarters desires the services of a United States national, it will notify the United States of: (A) The nature of the position to be filled, (B) The qualifications which an individual must possess to fill the position, and (C) The salary which such individual would receive if employed by the Headquarters. The Headquarters may notify the Government of the United States of the name(s) of any individual(s) it deems acceptable for the position.

2. The Government of the United States may assign to the Headquarters a United States national from its Government service who is acceptable to the Headquarters. The Government of the United States will provide security clearance for the individual concerned.

3. The Government of the United States will pay any and all salaries and emoluments of United States nationals, who are employed by it and assigned to the Headquarters concerned, from its own funds at rates determined by the Government of the United States.

4. International Military Headquarters will not pay any salaries and emoluments of any citizen of the United States.

5. The amounts of salaries and emoluments which International Military Headquarters would otherwise have paid United States nationals for each fiscal year will be deducted from the amount assessed the Government of the United States in respect of the contribution of the Government of the United States to such Headquarters for the subsequent fiscal year.

6. This Agreement has been executed in two originals, one to be retained by the Government of the United States, and one to remain with the North Atlantic Treaty Organization.

IN WITNESS WHEREOF, This Agreement is executed at Paris on this twenty-fifth day of February, 1953 by The Right Honourable The Lord Ismay, G.C.B., C.H., D.S.O., Secretary General of the North Atlantic Treaty Organization, on behalf of the North Atlantic

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[1] TIAS 2978, pp. 20–21; 5 UST 890.

[2] *Supra.*

Council, and William H. Draper, Jr., United States Permanent Representative to the North Atlantic Council, on behalf of the Government of the United States.

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32. REPORT OF THE SENATE COMMITTEE ON FOREIGN RELATIONS ON AGREEMENTS RELATING TO THE STATUS OF THE NORTH ATLANTIC TREATY ORGANIZATION, ARMED FORCES, AND MILITARY HEADQUARTERS, APRIL 28, 1953 [1]

REPORT

[To accompany Executives T and U, 82d Congress, 2d session, and Executive B, 83d Congress, 1st session]

The Committee on Foreign Relations, to whom was referred the agreement regarding the status of forces of parties of the North Atlantic Treaty (Ex. T, 82d Cong., 2d sess.), signed at London on June 19, 1951;[2] the agreement relating to the status of the North Atlantic Treaty Organization (Ex. U, 82d Cong., 2d sess.), signed at Ottawa on September 20, 1951;[3] and the protocol on the status of international military headquarters set up pursuant to the North Atlantic Treaty (Ex. B, 83d Cong., 1st sess.), signed at Paris on August 28, 1952,[4] reports the treaties to the Senate and recommends that advice and consent to ratification be given at an early date.

I. Purpose of the Agreements

The main purpose of the agreements is to define the legal status of the civilian organs and international military headquarters of the North Atlantic Treaty Organization and of the military forces and their civilian components of one NATO power stationed in the territory of another.

To this end, the status-of-forces agreement provides for such matters as passport and visa regulations, immigration inspections, the carrying of arms, criminal and civil jurisdiction, the settlement of claims, local procurement and local civilian labor requirements, and import, customs, and foreign exchange regulations.

The protocol to the status-of-forces agreement applies most of the provisions of that agreement to international military headquarters under NATO. In addition, the protocol gives such international headquarters juridical personality and confers limited privileges and immunities.

The civilian counterpart of the status-of-forces agreement gives juridical personality to the North Atlantic Treaty Organization and confers upon it the privileges and immunities normally accorded international organizations. It also defines the privileges and immunities of the national representatives and the international staff.

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[1] S. Exec. Rept. No. 1, 83d Cong., 1st sess.

[2] *Supra*, doc. 27.

[3] *Supra*, doc. 28.

[4] *Supra*, doc. 30.

II. Committee Action

The Consultative Subcommittee on European Affairs of the Foreign Relations Committee was consulted about the agreements several times by officials of the executive branch during the 82d Congress and was kept informed of the main issues involved in the negotiations.

The full committee held 2 days of open hearings on April 7 and 8, 1953, at which testimony was taken from Undersecretary of State Walter Bedell Smith, Secretary of Defense Charles E. Wilson, General of the Army Omar N. Bradley, Chairman of the Joint Chiefs of Staff, Mr. Herman Phleger, legal adviser of the Department of State, and other Government experts.[1]

The committee considered the agreements in executive session April 10 and again on April 21. On April 22, Mr. Phleger returned for further questioning in executive session and, on April 23, the committee voted to report the agreements favorably with an understanding making it clear that the status-of-forces agreement does not interfere with the right of the United States to exclude or remove persons whose presence in the country is deemed prejudicial to its safety or security.[2]

III. Background and Negotiation of Agreements

The necessity for arrangements of the kind contained in these agreements arises from the developing integration of the defense of Western Europe under the North Atlantic Treaty Organization. Military forces of many different nations are participating in this defense and are stationed in countries other than their own. This is a situation which is wholly unprecedented in peacetime and which requires unprecedented measures to deal with it. In the absence of a general NATO agreement, the status of these forces is a matter of some confusion and is often no different from that of a private citizen who is subject to all the laws and regulations of the country in question.

During World War II, United States forces in the United Kingdom were granted complete extraterritoriality by the British Parliament in the United States Visiting Forces Act of 1942.[3] That law is still in effect, but an act to repeal it has passed Parliament and awaits only an order in Council to become effective. Under the new law, American troops in the United Kingdom will have a status similar to that provided in the NATO agreements.

Everywhere on the Continent of Europe, however, United States forces entered during World War II by force, either as liberators or conquerors, and made their own laws.

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[1] See *Agreements Relating to Status of North Atlantic Treaty Organization, Armed Forces and Military Headquarters: Hearings before the Committee on Foreign Relations, United States Senate, 83d Congress, 1st Session, . . . April 7 and 8, 1953.*

[2] For the text of the Senate understanding, see *infra.*

[3] 5 and 6 Geo. VI, ch. 31.

After the end of the war, interim arrangements in the form of executive agreements covering the status of United States troops were negotiated with the new governments of the countries concerned. The provisions of these bilateral arrangements, which do not have the force of treaties, vary considerably from country to country, and the committee received testimony that difficulties have been encountered in their application.

With the coming into force of the North Atlantic Treaty and the beginning of the integrated defense buildup, it became apparent that some more formal and more nearly permanent definition of status was necessary and that it should be arrived at on a multilateral basis so as to provide uniformity.

Accordingly, in February 1950, the Secretary of Defense initiated studies to achieve this purpose. The Brussels agreement of 1949, governing the status of forces of the Western Union Powers of Europe was taken as a model.[1] Negotiation of the NATO agreement was carried out in the North Atlantic Council of Deputies in 1951. The status-of-forces agreement was signed by the NATO powers in June 1951, the organization agreement in September of that year, and the headquarters protocol in August 1952.

The status-of-forces agreement provides that it will come into force, for the states that have ratified it, 30 days after 4 signatory states have deposited their instruments of ratification with the United States Government. It has been ratified by France (September 29, 1952), Norway (February 24, 1953), and Belgium (February 27, 1953).[2]

The protocol on the status of international military headquarters contains the same provisions for coming into force. It has been ratified by Norway (February 24, 1953).[3]

The agreement relating to the civilian organs of NATO will come into force, as between the states that have ratified it, as soon as six instruments of ratification have been deposited with the United States. This agreement has been ratified by Denmark (May 7, 1952), the Netherlands (July 14, 1952), and Norway (February 24, 1953.)[4]

IV. General Effect of the Agreements

The United States is affected by the agreements both as a sending state, with substantial numbers of troops stationed in other NATO countries, and as a receiving state, in whose territory some troops of other NATO countries are stationed.

Because there are many more United States troops abroad than there are foreign troops in the United States, American interest in the agreements is primarily that of a sending state. The interests of the United States as a receiving state cannot be overlooked, but it must be remembered that the agreements are reciprocal, and the United States cannot expect to obtain more treaty rights as a sending state than it is willing to give as a receiving state.

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[1] The text of the Agreement Relating to Status of Members of the Armed Forces of the Brussels Treaty Powers, signed at London, Dec. 21, 1949, is printed in the Department of State *Bulletin*, Mar. 20, 1950, pp. 449–453.

[2] For subsequent ratification action on this agreement, see the footnotes to article XVIII of the agreement; *supra*, doc. 27.

[3] For subsequent ratification action on this protocol, see the footnote to article 16 of the protocol; *supra*, doc. 30.

[4] For subsequent ratification action on this agreement, see the footnotes to article 26 of the agreement; *supra*, doc. 28.

The most important rights accruing to the United States as a sending state are freedom from passport and visa regulations and immigration inspection for its troops; the right for its troops to carry arms under orders; new, firm, and uniform criminal and civil claims procedures; and certain tax and customs concessions.

These are also the most important rights given up by the United States as a receiving state.

These rights are discussed in detail from the point of view of both the sending and receiving state in the sections that follow, but it should be noted at the outset that the United States concessions amount to little more than what is already the practice under either existing law or administrative procedures.

It should also be noted that certain new rights are also established for the citizens of the receiving state. The most important of these are in the civil-claims procedures for the recovery of damages inflicted by troops or civilian employees of the sending state.

With few exceptions, the organization agreement and the headquarters protocol relate to NATO organizations located in Europe.

V. Principal Provisions of the Agreements

A. STATUS OF FORCES AGREEMENT

1. Conduct in the receiving state

Members of a military force, its civilian component, and their dependents have the duty to respect the law of the receiving state and in particular to refrain from any political activity in the receiving state (art. II).

2. Immigration

Subject to formalities established by the receiving state, members of a force (but not of a civilian component, or dependents) are exempt from passport and visa regulations, immigration inspection, and regulations on the registration and control of aliens. They are, however, required to have personal identity cards and individual or collective movement orders. Provision is made for removal of individuals on request of the receiving state and for notification to the receiving state of persons who leave the service of the sending state or who absent themselves (art. III).

3. Driving licenses

The receiving state is required to accept driving licenses issued by the sending state, or its subdivisions, or to issue its own licenses, without a test (art. IV).

4. Military uniforms

Members of a force shall normally wear a uniform, with civilian dress allowed on the same conditions as for members of the military forces of the receiving state; but special arrangements can be made by bilateral agreements (art. V).

5. Vehicles

Service vehicles shall carry a distinctive nationality mark (art. V).

6. Carrying of arms

Members of a force may carry arms when authorized to do so by their orders (art. VI).

7. Criminal jurisdiction (art. VII)

The sending state has exclusive jurisdiction over persons subject to its military law with respect to offenses punishable by the law of the sending state but not by the law of the receiving state.

The sending state has primary jurisdiction over a member of a force or civilian component in relation to—

(*a*) Offenses solely against the property or security of the sending state.

(*b*) Offenses solely against the person or property of another member of the force or civilian component or dependent.

(*c*) Offenses arising out of any act or omission done in the performance of duty.

The receiving state has exclusive jurisdiction in the case of offenses punishable by its law but not by the law of the sending state. (It should be noted that, as a practical matter, no such case is likely to arise respecting United States troops, because the Uniform Code of Military Justice,[1] which Congress enacted for United States Armed Forces, permits any offense against the law of the country where the troops are stationed to be treated as an offense also against the code.)

The receiving state has primary jurisdiction over offenses not committed against the property or security of the sending state; or against the person or property of a member of the force, civilian component, or dependent of the sending state; or not in the performance of duty. The receiving state is committed to give "sympathetic consideration" to requests to waive its jurisdiction in cases which the sending state considers of particular importance.

Whenever a member of the force, civilian component, or dependent of the sending state is prosecuted in the courts of the receiving state, he shall be entitled—

(*a*) To a prompt and speedy trial.

(*b*) To be informed, in advance of the trial, of the specific charge or charges against him.

(*c*) To be confronted with the witnesses against him.

(*d*) To have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of the receiving state.

(*e*) To have legal representation of his own choice for his defense, or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving state.

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[1] PL 506, 81st Cong., 2d sess., May 5, 1950; 64 Stat. 107.

(*f*) If he considers it necessary, to have the services of a competent interpreter.

(*g*) To communicate with a representative of the government of the sending state and, when the rules of the court permit, to have such a representative present at his trial.

Safeguards against double jeopardy in cases of concurrent jurisdiction are also included, and provision is made for cooperation between the authorities of the sending and receiving states in seeing that justice is done.

8. Civil claims (art. VIII)

The agreement waives intergovernmental claims for damages to government property used by the armed forces in connection with operations under the North Atlantic Treaty.

Provision is made for arbitration of claims arising from damage to other government property. Small claims of this nature are waived where the damage is less than the equivalent of 1,400 United States dollars.

The agreement waives intergovernmental claims based on the injury or death of members of the armed services while engaged in the performance of duty.

The receiving state will settle private claims which arise out of acts or omissions of members of a force or civilian component done in the performance of duty, or which arise out of any other act, omission, or occurrence for which a force or civilian component is legally responsible. The procedure will be the same as for claims arising from activities of the armed forces of the receiving state. The receiving state will pay 25 percent of the cost of settling the claims and the sending state 75 percent. In cases of serious hardship, the North Atlantic Council may be requested to arrange a different settlement. Individual members of a force or civilian component are protected against execution of judgments in cases arising out of the performance of duty.

Individual members of a force or civilian component may be sued for claims arising out of their tortious acts or omissions in the receiving state not done in the performance of duty. When such claims arise, the authorities of the receiving state will assess compensation and report to the authorities of the sending state who will then decide whether or not to offer an ex gratia payment in settlement of the claim, and if so, of what amount. Thus the claimant is given an option of remedies.

Arbitration procedures are provided where there is dispute as to whether or not the tortious act or omission was done in the performance of duty.

9. Local procurement of supplies and services

Requirements of a force and its civilian component for local subsistence items are normally to be met through the agency of the receiving state providing these items for its own forces. Local labor requirements are to be fulfilled on the same basis as those of the forces of the receiving state. The receiving state also undertakes the responsibility of arranging to make available the buildings and grounds required by the force of the sending state (art. IX).

10. Taxes on individuals

Members of a force or of a civilian component are exempt from taxes by the receiving state on their salaries and from other taxes based on residence or domicile (art. X).

11. Customs and other taxes

Members of a force or a component may import duty-free their private automobiles, and on first arrival, their personal effects and furniture.

A force may import duty-free its equipment and reasonable quantities of supplies.

Special arrangements will be made for the free crossing of frontiers by regularly constituted units or formations.

Service vehicles of a force or civilian component are exempt from taxes for use of the roads. Fuel, oil, and lubricants for the vehicles, aircraft, and vessels of a force or civilian component will be delivered tax-free.

Official documents under seal are exempt from customs inspection (art. XI).

12. Termination of agreement

The agreement may be denounced by any party on 1 year's notice, 4 years after the agreement comes into force (art. XIX). In the event of hostilities, any party may suspend application of any provision so far as it is concerned on 60 days' notice (art. XV).

B. HEADQUARTERS PROTOCOL

1. Scope

The international military headquarters covered by the protocol are defined as the Supreme Headquarters Allied Powers in Europe, the Headquarters of the Supreme Allied Commander, Atlantic—

> any equivalent international military headquarters set up pursuant to the North Atlantic Treaty . . . any international military headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a supreme headquarters (art. 1).

In addition, the North Atlantic Council may apply the protocol to any other international headquarters or organization not included in these definitions (art. 14).

The only headquarters in the United States covered by the protocol are those of the Supreme Allied Commander, Atlantic, and the Commander in Chief, Western Atlantic Area, both of which use the same facilities in Norfolk.

2. Applicability of status-of-forces agreement

The protocol extends most of the applicable provisions of the status-of-forces agreement to international military headquarters established pursuant to the North Atlantic Treaty. For most purposes, the headquarters is given the status of a sending state. The principal exceptions have to do with criminal jurisdiction and with civil claims arising out of acts not done in the performance of duty. In these cases the sending state will be not the headquarters but the state to whose armed forces or civilian components the individuals n question belong (art. 4).

3. Income taxes

Employees of an international headquarters are exempt from income taxes on their salaries. However, special agreements may be made between a government and a headquarters, whereby the government will employ and pay its own nationals assigned to the headquarters. In this way, the United States can be assured that Americans will not be exempt from United States income taxes (art. 7).

4. Other taxes

Each receiving state is obligated to relieve each headquarters "so far as practicable," from duties and taxes affecting expenditures in the interest of the common defense (art. 8).

5. Headquarters property

Provision is made for division of a headquarters' property and ssets, which it no longer requires, among the parties to the North Atlantic Treaty in proportion to their contributions to the capital costs of the headquarters. The North Atlantic Council, however, is given authority to decide otherwise (art. 9).

6. Legal rights

Each supreme headquarters is given juridical personality, with the right to make contracts, to acquire and dispose of property (art. 10), and to sue and be sued (art. 11).

7. Currency

Headquarters may hold accounts in any currency, and parties to the protocol will facilitate transfers of headquarters funds from one cur- ency to another (art. 12).

8. Immunity for records

The archives and other official documents of a headquarters are inviolable (art. 13).

C. ORGANIZATION AGREEMENT

1. Legal rights of NATO

The North Atlantic Treaty Organization, consisting of the North Atlantic Council, the Council Deputies, and subsidiary bodies, is given juridical personality, with the capacity to make contracts, to acquire and dispose of property, and to institute legal proceedings (art. 4). The Organization, its property, and assets are given immunity from every form of legal process (art. 5). The Organization's premises (art. 6) and documents (art. 7) are made inviolable. Its correspondence and communications are exempt from censorship, and it is given the right to use codes and diplomatic couriers (art. 11).

2. Currency

The Organization may hold currency in any form and transfer its funds from one currency to another (art. 8).

3. Taxes

The Organization is exempt from all direct taxes and from all customs duties and quantitative restrictions on imports or exports for its official use (art. 9). Member states undertake "whenever possible" to arrange for the remission of taxes which form a part of the price paid for property (art. 10).

4. National representatives

Representatives of member states to the Organization and their official staff are given generally the same immunities and privileges as those accorded to diplomatic representatives and their official staff of comparable rank (arts. 12–16).

5. International staff

Officials of the Organization and experts on missions for it are given similar privileges and immunities (arts. 17, 18, 20–23).

6. Taxes

Officials of the Organization are exempt from taxation on their salaries from the Organization, but any member state may conclude an agreement with the Organization whereby it will employ and pay its own nationals, so that they will not be immune from taxation (art. 19).

VI. IMMIGRATION PROVISIONS

The committee was concerned about the effect of article III of the status-of-forces agreement on United States immigration laws. This article provides that under certain conditions members of a military force shall be exempt from passport and visa regulations, from immigration inspection, and from regulations on the registration and control of aliens. The conditions under which the exemption applies are that the members each have an identity card, that they are traveling under orders, and that any formalities established by the receiving state are complied with. "Formalities" in this case means "regulations." The article requires the sending state to remove any person against whom the receiving state issues an expulsion order. It also requires notification to the receiving state of any person who ceases to be a member of the force and of any person who absents himself from the force for 21 days.

The exemption is limited to military personnel; it does not apply to dependents or to members of a civilian component.

From the point of view of NATO operations in Europe, and from the point of view of the United States as a sending state, the freedom from the red tape of immigration procedures which this exemption provides is extremely important to assure the rapid movement of forces across international boundaries in Europe.

From the point of view of the United States as a receiving state, the total number of troops of other NATO powers entering the country in a year is only about 12,000, and there are no more than 3,000 or 4,000 in the United States at any one time. Those that are here come only on invitation or with the consent of the United States.

The exemption from passport, visa, and other regulations does not preclude measures which the United States may want to take to protect its security. Nor does the exemption preclude the setting of any standards the United States desires for admissibility to this country.

During negotiation of the agreement, it was understood and minuted that the exemption was—

> subject to the explanation and the fact that every country would be free to apply special measures if it desired thereby to exercise stricter control over the entry of personnel.

In order to remove all doubt about the matter, the committee adopted the following language as a part of the resolution of ratification of the status-of-forces agreement:

> It is the understanding of the Senate, which understanding inheres in its advice and consent to the ratification of the agreement, that nothing in the agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States.

This language makes it clear that the Senate's advice and consent to ratification of the agreement is based on its understanding that the agreement does not, in fact, diminish or alter United States rights in the areas mentioned. The committee is convinced that this is the meaning of the agreement. The adoption of the understanding is an additional safeguard.

VII. Privileges and Immunities

The Organization agreement (Ex. U) provides various privileges and immunities for the North Atlantic Treaty Organization, its subsidiary bodies, the national representatives to the Organization and its bodies, and the international staff.

The immunities of the Organization are those normally accorded international bodies—that is, immunity from legal process; inviolability of its premises, archives, and communications; and freedom from taxation and from currency controls. The necessity of these provisions from the point of view of security and of effective international operations seems obvious.

The national representatives to the Organization or its subsidiary bodies are given the privileges and immunities of diplomatic representatives of comparable rank. The official clerical staffs of national representatives are given a lower scale of privileges.

These provisions are customary in connection with the status of national representatives to international organizations. They seem to the committee to be necessary for the efficient functioning of the representatives and thoroughly justified. It should also be pointed out again that there are many more American officials connected with NATO abroad than there are foreign officials in the United States.

A third group of privileges and immunities is granted the international staff of the Organization—again in line with established procedure. The categories of officials receiving these privileges and immunities must be agreed on by the Chairman of the Council Deputies and each of the member states concerned. These privileges and immunities are limited to certain tax and customs exemptions, to immunity from legal process in respect of acts done in their official capacity and in the scope of their authority, to the same freedom from immigration inspection, aliens' registration, and currency controls as diplomatic personnel of comparable rank, and to the same right to repatriation as diplomatic personnel of comparable rank.

Finally, experts employed on missions on behalf of the Organization are given the following limited privileges and immunities—

> so far as is necessary for the effective exercise of their functions while present in the territory of a member state for the discharge of their duties—
>
> (*a*) Immunity from personal arrest or detention and from seizure of their personal baggage;
>
> (*b*) In respect of words spoken or written or acts done by them in the performance of their official functions for the Organization, immunity from legal process;
>
> (*c*) The same facilities in respect of currency or exchange restrictions and in respect of their personal baggage as are accorded to officials of foreign governments on temporary official missions;
>
> (*d*) Inviolability for all papers and documents relating to the work on which they are engaged for the Organization (art. 21).

It is expressly provided that the privileges and immunities granted are in the interests of the Organization and not for the personal benefit of the individuals themselves. It is the duty of a member state (in the case of national representatives) and of the Chairman of the Council Deputies (in the case of the international staff) to waive the immunity in any case where the immunity would impede the course of justice and can be waived without prejudice to the purposes for which it is accorded.

The committee gave the closest scrutiny to these provisions, particularly the immunity of experts from personal arrest, to make sure that they did not in any way create an immunity from arrest or prosecution for violation of any United States laws relating to espionage, sabotage, or other subversive activity.

After careful study and after consultation with the legal adviser of the Department of State, the committee is convinced that the provisions do not create such an immunity.

NATO experts are given immunity from personal arrest or detention and from seizure of their personal baggage only—

> so far as is necessary for the effective exercise of their functions while present in the territory of a member state for the discharge of their duties.

By definition, they would not be exercising their functions or discharging their duties if they engaged in espionage, sabotage, or subversion against the United States, and thus the immunity would not apply.

Further, the Chairman of the Council Deputies is specifically directed in article 22 to waive the immunity if it is abused. And article 3 provides that—

> the Organization and member states shall cooperate at all times to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the immunities and privileges set out in the present agreement.

The committee is convinced that there is nothing in the agreement to prevent the arrest and prosecution of any NATO expert who is charged with violating the laws of the United States relating to espionage, sabotage, or other subversive activity. Nor is there anything in the agreement to prevent the United States from excluding any person deemed undesirable.

VIII. Criminal Jurisdiction Provisions

The committee gave particular attention to the provisions of the status-of-forces agreement governing criminal jurisdiction of American servicemen abroad. Under these provisions, the servicemen will be subjected to trials in foreign courts when charged with offenses committed off duty and not against another American. The committee, therefore, was anxious to insure a fair trial and to protect the rights of our troops in every way possible.

In considering the criminal jurisdiction provisions, it is important to remember that—

1. As a practical matter, in the absence of agreement guaranteeing rights to American troops in NATO countries, the receiving state could specify, as a condition of their entry, the rights which it is willing to grant and which it can similarly take away. Inasmuch as the privileges and benefits sought by us in connection with our troops abroad are not guaranteed by international law generally recognized by the NATO nations, it has been necessary to work out in NATO countries operating arrangements which are generally unsatisfactory in that they lack uniformity, are temporary in nature, may be limited to local situations, and do not generally provide for all the important rights which are provided for in the status-of-forces treaty. These operating arrangements do not, in most cases, provide for exclusive criminal jurisdiction, and, to this extent, the United States is not giving up in the treaties something which it now possesses.
2. The United States cannot legitimately demand treaty rights for its troops abroad that it is not willing to accord to foreign troops here. The committee would not look with favor upon a complete surrender of criminal jurisdiction over foreign troops in the United States to a foreign power. The committee therefore

> believes that the United States should not expect such a surrender by a foreign power over United States troops on its soil.

Exclusive criminal jurisdiction, amounting to extraterritoriality, itself creates difficult problems. In the eyes of the local population, it sets Americans apart as a special, privileged class, and this fact acts as a constant irritant. If American courts-martial return verdicts of acquittal, or if they impose sentences which seem lenient to the aggrieved parties, they are open to charges of favoritism. If, on the other hand—as has sometimes happened—they impose sentences substantially greater than those provided by local law for the same crime, they can be accused of flouting local customs and sensibilities. Regardless of how fair and just American courts-martial may be, the existence of exclusive criminal jurisdiction seems to the other country to be an infringement of its sovereignty.

The jurisdiction which foreign courts will have over Americans under this agreement is limited, as pointed out above, to offenses committed off duty and not against another American in the armed forces or civilian component. American jurisdiction is retained for offenses against the property or security of the United States and against the person or property of another member or dependent of the United States force, or civilian component.

Further, the American on trial in a foreign court will have all the rights to which a citizen of the country in question is entitled, and he must specifically be accorded such rights as those to a prompt and speedy trial, to be confronted with the charges and witnesses against him, to subpena witnesses in his own behalf, to be represented by counsel, to have an interpreter, and to communicate with his Government.

The committee is convinced that there are adequate safeguards in the agreement so that there need be no concern. The committee also desires to make it clear that the criminal-jurisdiction provisions of the status-of-forces agreement in no way constitute a precedent for agreements covering the same subjects which may conceivably be negotiated in the future with other countries. If negotiations for such agreements should be entered into, the committee would expect the executive branch to give due consideration to the circumstances prevailing at the time and in the area in question, with particular reference to differences in customs, legal codes, and the administration of justice. The committee has received assurances to this effect from the executive branch.

In determining whether the criminal-jurisdiction provisions are in the interests of the United States, it is necessary to compare what the situation would be under the treaty not only with what the situation now is but also with what it could reasonably be expected to be if the treaty were not ratified. The following letter from the Acting Secretary of State to the chairman of the Foreign Relations Committee makes it clear that the situation under the treaty would be an improvement over what now exists and over what could be anticipated in the future without the treaty:

DEPARTMENT OF STATE,
Washington, April 22, 1953.

The Honorable ALEXANDER WILEY,
Chairman, Senate Foreign Relations Committee,
United States Senate.

MY DEAR SENATOR WILEY: I understand that the question has been raised as to the relation of the NATO status treaties with present arrangements which we now have governing the criminal jurisdiction of our forces abroad.

I think that the following points are controlling:

1. As appears on page 28 of the record of the hearings before the Committee on Foreign Relations on April 7 and 8, "With respect to criminal jurisdiction, we will have generally better rights under these treaties than under the interim arrangements. The sole exception is the situation in the United Kingdom" where the NATO formula will shortly become applicable in any event. For example, in one case, we have an interim arrangement where some of our personnel can be tried by our authorities, while the remainder are entirely subject to local law. This arrangement is an informal one and lacks legal standing.

In another case we do not even have exclusive jurisdiction of our personnel for offenses committed in performance of official duty.

In a third case it is agreed that we will have exclusive jurisdiction until the NATO status-of-forces treaty becomes effective; should it not become effective, we anticipate that this agreement would have to be renegotiated.

In still another case we now have no jurisdiction over offenses of our personnel against local law.

Other arrangements incorporate the terms of the NATO status-of-forces agreement. In some cases we have no arrangements whatsoever.

All of the foregoing arrangements are informal ad hoc interim arrangements providing a confusing and varying pattern of rights and responsibilities. The arrangements have perforce been limited by the existing legislation in each country, which in most cases is not as favorable as that of the NATO status-of-forces formula. The present arrangement therefore lacks operational uniformity as well as legal sanction, and does not provide adequate protection of our forces abroad.

2. Under the present interim arrangements, we have been working out our problems solely by reason of the cooperative spirit of the other countries and their authorities. It is not easy for the authorities of these other governments to cooperate with us in every case, as their present legal structure in most cases does not provide for as favorable treatment as that established by the treaties. The treaties would clarify, codify, and authorize on a firm legal basis the treatment which has been extended to us solely as a matter of grace and good will.

The treaties would provide a legal basis which would permit our military authorities and local authorities, both civil and military, greater opportunity to cooperate in resolving problems on a mutually satisfactory basis. Particularly in the area of criminal jurisdiction, the treaties contemplate close collaboration and cooperation. Article 7, paragraph 3 (c) of the status-of-forces treaty specifically provides that sympathetic consideration shall be given to requests for waiver of primary jurisdiction in cases deemed to be of particular importance, and close cooperation in investigations is contemplated by paragraph 6 of that article.

3. Even more importantly, and as indicated at page 30 of the hearings, it would almost certainly follow, if the multilateral treaties should not become effective, that less favorable terms than those of these treaties would result from separate negotiations with the respective countries. Clearly, sovereign governments are able to extend greater rights on a reciprocal basis founded upon a treaty.

4. Finally, it is considered that there would be serious effects on our relations with the NATO nations were the United States to attempt to substitute other arrangements for these treaties. As appears at page 30 of the hearings, the other nations have looked upon these reciprocal agreements as evidence of the good-faith partnership nature of the North Atlantic Treaty Alliance. They attach considerable importance to these agreements. Several countries have already

atified them; several others have either obtained necessary legislative consent to atification or are well on the way to do so.

The sincere good faith and willingness of the United States to cooperate on a easonable basis of equality could be questioned if other formulas were to be ollowed. Opponents to the ratification of the EDC treaties might seek to make he most of a rejection by the United States of these treaties, which NATO ations look upon as a cooperative step toward a common objective in the same vay as we consider the EDC to be such a step.

Sincerely yours,

WALTER B. SMITH, *Acting Secretary.*

IX. CLAIMS PROCEDURES

The procedures for settling civil claims seem to the committee to be fair and just and calculated to reduce to a minimum the friction hat almost inevitably arises from torts committed by members of he force or civilian component against members of the local population. In the case of torts committed in the performance of duty, he local citizen who is injured proceeds against his own government exactly as he would if the injury had been caused by a member of his own government's armed forces. His own government settles he claim and is committed to pay 25 percent of the damages (thus safeguarding against excessive settlements) while the sending state whose national is at fault pays the other 75 percent. There is some reason to expect that such a procedure will result in smaller settlements than adjudication by American claims officers, with greater satisfaction of the claimants. Experience has shown that local officials are likely to take a more moderate view than Americans of onetary damage.

In the case of tortious acts or omissions not done in line of duty, he person damaged can sue the person responsible. But, because t was felt that most soldiers would not be able financially to pay substantial damages, the person wronged also is given an additional remedy through his own government.

It is important to note that these protections for local populations are reciprocally available to American citizens who may be injured by foreign troops in the United States.

X. EFFECT OF AGREEMENTS ON FOREIGN TAXATION OF UNITED STATES EXPENDITURES FOR COMMON DEFENSE

The agreements have no direct bearing on the question of general ax relief for United States expenditures abroad for the common defense.

The status-of-forces agreement does provide in paragraph 4 of article XI that a force may import duty free its equipment as well as reasonable quantities of provisions, supplies, and other goods for ts use.

Paragraph 2 (c) of article XI provides that service vehicles of a force or civilian component shall be exempt from the payment of any tax in connection with use of the roads. Paragraph 11 of the same article provides for tax-free delivery of fuel, oil, and lubricants for vehicles, aircraft, and vessels.

The headquarters protocol and the civilian agreement also provide for tax exemption so far as practicable of expenditures made by the international bodies of NATO for the common defense. While these provisions do not directly affect United States expenditures, the United States has a close interest in the matter inasmuch as it is one of the largest contributors to NATO.

Since the agreements now before the Senate have been under negotiation, the United States has also negotiated tax-relief agreements with most of the NATO countries: Portugal, United Kingdom, Luxembourg, France, Belgium, Norway, Denmark, the Netherlands, Italy, Iceland, and Greece.[1] These bilateral executive agreements are not before the Senate for ratification, but they were submitted to the Foreign Relations Committee for its information. In general, they provide tax exemption for United States expenditures for the common defense.

The committee expresses the hope that the executive branch will continue to give attention to this question so that the money appropriated for the common defense will be spent for that purpose and will not be dissipated in the payment of foreign taxes.

XI. UNITED STATES FEDERAL-STATE RELATIONSHIPS AND STATE LAWS

The agreements have no direct effect on Federal-State relationships within the United States. They in no way enlarge the powers of the Federal Government at the expense of the States.

The agreements will supersede State laws in some instances:

1. Driving licenses

Article IV of the status-of-forces agreement requires States to accept driving licenses issued by the sending state or to issue their own driving licenses, without requiring a driving test, to any member of a force who holds a license from his own state. Reciprocal recognition of driving licenses, however, has already been provided for by the convention on road traffic of 1949,[2] ratified by the Senate in 1950, so that this provision does not create a new situation in the United States. Article VIII of the status-of-forces agreement makes the sending state financially responsible for automobile accidents occurring in line of duty, and this should tend to insure care in issuing drivers licenses.

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[1] The tax-relief agreements here referred to are the following: Portugal, Apr. 1, 1953 (TIAS 2784; 4 UST 361); the United Kingdom, Mar. 18, 1952 (TIAS 2559; 3 UST 4158); Luxembourg, Mar. 13, 1952 (TIAS 2538; 3 UST 4001); France, June 13, 1952 (TIAS 2655; 3 UST 4828); Belgium, Apr. 7, 1952 (TIAS 2719; 3 UST 5245); Norway, June 27, 1952 (TIAS 2720; 3 UST 5253); Denmark, Apr. 9, 1952 (TIAS 2546; 3 UST 4041); the Netherlands, Mar. 7, 1952 (TIAS 2563; 3 UST 4183); Italy, Mar. 5, 1952 (TIAS 2566; 3 UST 4234); Iceland, Mar. 18, 1952 (TIAS 2557; 3 UST 4150); and Greece, Feb. 4, 1953 (TIAS 2775; 4 UST 166).

[2] Convention of Sept. 19, 1949 (TIAS 2487; 3 UST 3008).

2. Carrying arms

Some State laws on the carrying of arms might be contravened by article VI of the status-of-forces agreement which provides that members of a force—

> may possess and carry arms, on condition that they are authorized to do so by their orders.

The necessity for an armed force to be armed is obvious. The article also provides, however, that—

> the authorities of the sending state shall give sympathetic consideration to requests from the receiving state concerning this matter.

3. Criminal jurisdiction

The criminal jurisdiction of State courts might in a few cases be restricted by the provisions of article VII of the status-of-forces agreement which gives the authorities of the sending state primary jurisdiction over offenses by their troops committed in the performance of duty. State courts would also be deprived of jurisdiction in cases where a foreign soldier committed an offense against another member of his force, but these are cases in which no American interests are involved.

4. Income and property taxes

Some State tax laws might be superseded by article X of the status-of-forces agreement which provides that—

> members of a force or civilian component shall be exempt from taxation in the receiving state on the salary or emoluments paid to them as such members by the sending state or on any tangible movable property the presence of which in the receiving state is due solely to their temporary presence there.

The article also provides that the presence of such members in the receiving state shall not count toward any time period necessary for establishing residence in the state.

5. Other taxes

Under paragraph 4 of article XI of the status-of-forces agreement, service vehicles are exempt from taxes payable in respect to use of the roads. Under paragraph 11 of article XI, fuel, oil, and lubricants for use in the vehicles, aircraft, and vessels of a force or civilian component are to be delivered free of all duties and taxes.

Two other tax exemptions will have little, if any, practical effect on State laws:

Article 9 of the civilian agreement exempts the assets, income, and property of the North Atlantic Treaty Organization from all direct taxes. The only organs of NATO covered by this agreement and now located in the United States are in the District of Columbia.

Article 8 of the headquarters protocol provides that headquarters—

> shall be relieved, so far as practicable, from duties and taxes affecting expenditures by them in the interest of common defense and for their official and exclusive benefit.

The only such headquarters in the United States are those of the Supreme Allied Commander, Atlantic, and the Commander in Chief, Western Atlantic Area, in Norfolk. These headquarters are located on Federal property and use facilities owned by the Federal Government.

6. *Immunities*

All three agreements provide immunity from search and seizure of official documents and property. The security needs impelling this provision are obvious.

XII. EFFECT ON FEDERAL LAWS

Aside from the Federal income- and excise-tax laws affected by the provisions cited above, Federal customs laws will be superseded to the extent provided in article XI of the status-of-forces agreement, articles 9, 13, 14, and 18 of the civilian agreement, and article 8, of the headquarters protocol.

These articles provide for the duty-free importation of goods for the official use of a force, a civilian component, a civilian organ of NATO, or an international headquarters. They also allow duty-free importation of the personal effects of individuals assigned to these bodies. United States law already provides for most of these privileges.

The exemption from the immigration laws provided in the status-of-forces agreement is discussed in section VI, above, and privileges and immunities conferred by the civilian agreement are treated in section VII.

XIII. TAX STATUS OF UNITED STATES CITIZENS

Great care was taken in negotiating the agreements to make sure that no United States citizen was exempt from United States income taxes.

There is an exemption (art. 19 of the civilian agreement and art. 7 of the headquarters protocol) for the salaries paid by the North Atlantic Treaty Organization, its subsidiary bodies, and its international military headquarters. The same articles, however, provide for arrangements whereby any member state may itself employ and pay any of its own nationals assigned to such bodies. The United States does employ and pay Americans assigned to these bodies, and it taxes them on their salaries.

The provisions of the status-of-forces agreement exempting members of forces from income taxes of the receiving state do not apply to nationals of that state. Thus, no exemption from United States income taxes is accorded Americans who may be employed by the military force of a foreign power in the United States.

XIV. IMPLEMENTING LEGISLATION

The treaties are self-executing except for the claims provisions of the status-of-forces agreement and the headquarters protocol. Legisation to implement those provisions has been submitted to the Congress by the executive branch.

The draft legislation authorizes the Secretary of Defense to pay the claims adjudicated under the provisions of the agreements, and establishes the procedure to be used in settling claims which arise under the agreements in the United States. It is now pending before the Committee on Foreign Relations which intends to give it early consideration after ratification of the treaties.

XV. Special Areas

A. JAPAN

The United States security treaty with Japan,[1] which the Senate ratified in 1952, provides for the negotiation of an administrative agreement between the two countries governing the status of United States forces in Japan. The administrative agreement negotiated under the treaty [2] in turn provides in article XVII that upon the coming into force of the NATO status-of-forces agreement—

> the United States will immediately conclude with Japan, at the option of Japan, an agreement on criminal jurisdiction similar to the corresponding provisions of that agreement.

The administrative agreement further provides in paragraph 5 of he same article that—

> in the event the said North Atlantic Treaty agreement has not come into effect within one year from the effective date of this agreement, the United States will, at the request of the Japanese Government, reconsider the subject of jurisdiction over offenses committed in Japan by members of the United States armed forces, the civilian component, and their dependents.

The effective date of the administrative agreement was April 28, 1952. The Japanese have indicated that they will request reconsideration of the criminal jurisdiction provisions on April 28, 1953. The committee deems it desirable, therefore, that the Senate act on the status-of-forces agreement as soon as possible, even though under a strict construction of the terms of that agreement it would not come into force for the United States until 30 days after completion of the ratification process.

At the present, under the interim terms of the administrative agreement with Japan, the United States retains exclusive criminal jurisdiction over all offenses committed by American military personnel, ivilian employees, and their dependents in Japan. This situation is he cause of much unrest and bad feeling toward the United States in Japan, and the committee believes that our relations with the Japanese would be improved if criminal jurisdiction over our troops in Japan were put on the same basis as in the NATO countries.

In any event, the United States is already committed to reconsidering its exclusive jurisdiction at the request of Japan on April 28, 1953. In view of the fact that Japan is now a fully sovereign, independent nation, it can hardly be expected to continue to grant what amounts to extraterritoriality to a foreign power. It seems in the interests of the United States, therefore, to take prompt action on the status-of-forces agreement so that American personnel in Japan may be assured of the rights provided by that agreement.

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[1] *Supra*, pp. 885–886.

[2] *Infra*, pp. 2406–2423.

B. GREENLAND

Under the terms of the 1951 agreement between the United States and Denmark for the defense of Greenland,[1] the provisions of the status-of-forces agreement with respect to criminal jurisdiction, right of entry, and taxation become applicable to Greenland upon the coming into force of the treaty.

The other provisions of the treaty may also be extended to Greenland at the option of Denmark.

XVI. Why the Agreements Are in the Interest of the United States

Ratification of the agreements is in the national interest of the United States from a number of points of view.

The agreements will replace the present hodgepodge of interim arrangements in Europe with a permanent, uniform system. Difficulties have arisen under the present arrangements, and the fact that these interim arrangements have worked as well as they have has been due in large part to the good will of all concerned. However, while good will is an indispensable ingredient of all fruitful international relations, it is not a satisfactory substitute for binding treaty relationships. The absence of such relationships, moreover, frequently leads to irritations and friction between troops and local populations and these in turn are destructive of good will.

The agreements will reduce the paperwork and administrative burdens now falling on American commanders in Europe.

They will also insure the international mobility of forces in Europe. The military advantages of such mobility are obvious.

All of these advantages will be enhanced by the multilateral character of the agreements. The status of troops and civilian personnel will be the same in all NATO countries, and they may be transferred from one country to another without the administrative complications which would otherwise be met. This uniformity among all members of NATO is not only desirable from the point of view of integrating the defense of the area; it also furthers the concepts of mutuality and sovereign equality embodied in the North Atlantic Treaty.

Under the agreements the United States will acquire a number of new rights in the fields of criminal jurisdiction, civil claims, the carrying of arms, free movement of personnel, and tax and customs treatment. In some instances, these rights conform to the present practice; but under the agreements the rights will be firm and authoritative, whereas those which we now have are exercised only by the good will of a foreign power.

The United States gives up no rights as a receiving state which it oes not acquire as a sending state. The advantages accruing to ie United States as a sending state far outweigh whatever disad- ntages it may feel as a receiving state.

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[1] Agreement of Apr. 27, 1951; *infra*, pp. 1661–1667.

It should be kept clearly in mind that the United States gives up o rights over our troops in Europe which we now have, in respect to riminal jurisdiction or to any other matter. On the contrary, all of ie rights of the sending state written into the agreements represent et gains for the United States.

The committee believes that the agreements will improve the pres- nt position of United States forces in Europe. This position, as ted above, is not entirely satisfactory. It is doubtful, however, iat even the existing status quo could be maintained if the agree- ients should not be ratified.

Many of the present interim arrangements have been continued n the expectation that they would shortly be replaced by the pending greements. If this expectation should not be borne out, a break- own of the present arrangements could reasonably be anticipated.

XVII. Conclusion

In view of the considerations set forth above, the Committee on 'oreign Relations is of the opinion that the agreements provide ample afeguards for the rights of the United States and its citizens, that on alance these rights will be increased rather than decreased by the greements, and that prompt ratification is in the national interest.

3. UNDERSTANDING OF THE SENATE IN ADVISING RATIFICATION OF THE STATUS OF FORCES AGREEMENT, JULY 15, 1953[1]

It is the understanding of the Senate, which understanding inheres n its advice and consent to the ratification of the Agreement, that othing in the Agreement diminishes, abridges, or alters the right f the United States of America to safeguard its own security by xcluding or removing persons whose presence in the United States s deemed prejudicial to its safety or security, and that no person vhose presence in the United States is deemed prejudicial to its safety r security shall be permitted to enter or remain in the United States.

In giving its advice and consent to ratification, it is the sense of he Senate that:

1. The criminal jurisdiction provisions of Article VII do not onstitute a precedent for future agreements;
2. Where a person subject to the military jurisdiction of the Jnited States is to be tried by the authorities of a receiving state, inder the treaty the Commanding Officer of the Armed forces of he United States in such state shall examine the laws of such state

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[1] TIAS 2846; 4 UST 1828–1829. This statement was incorporated in the 'resident's proclamation of the agreement.

with particular reference to the procedural safeguards contained in the Constitution of the United States;

3. If, in the opinion of such commanding officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights he would enjoy in the United States, the commanding officer shall request the authorities of the receiving state to waive jurisdiction in accordance with the provisions of paragraph 3 (c) of Article VII (which requires the receiving state to give "sympathetic consideration" to such request) and if such authorities refuse to waive jurisdiction, the commanding officer shall request the Department of State to press such request through diplomatic channels and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives;

4. A representative of the United States to be appointed by the Chief of Diplomatic Mission with the advice of the senior United States military representative in the receiving state will attend the trial of any such person by the authorities of a receiving state under the agreement, and any failure to comply with the provisions of paragraph 9 of Article VII of the agreement shall be reported to the commanding officer of the armed forces of the United States in such state who shall then request the Department of State to take appropriate action to protect the rights of the accused, and notification shall be given by the Executive Branch to the Armed Services Committees of the Senate and House of Representatives.

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34. TESTIMONY BY THE DEPUTY UNDER SECRETARY OF STATE [1] BEFORE THE HOUSE COMMITTEE ON FOREIGN AFFAIRS ON THE PROPOSED REVISION OF AGREEMENTS GRANTING FOREIGN COUNTRIES CRIMINAL JURISDICTION OVER AMERICAN ARMED FORCES STATIONED WITHIN THEIR BOUNDARIES, JULY 19, 1955 [2]

Let me begin with a word about the testimony which the committee has heard until now.[3] The Department of State—and I am sure I can speak also for the Department of Defense in this regard—fully sympathizes with the concern expressed by the witnesses who have appeared before this committee. It is not, I trust, necessary to say that this concern for the members of our forces is fully shared by the

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[1] Robert Murphy.

[2] Department of State *Bulletin*, Aug. 1, 1955, pp. 178–185.

[3] For the testimony of previous witnesses, see *Status of Forces Agreements: Hearings Before the Committee on Foreign Affairs, House of Representatives, Eighty-fourth Congress, First Session, on H. J. Res. 309 and Similar Measures Providing for the Revision of the Status of Forces Agreement and Certain Other Treaties and International Agreements, or the Withdrawal of the United States from Such Treaties and Agreements, So That Foreign Countries Will Not Have Criminal Jurisdiction over American Armed Forces Personnel Stationed Within Their Boundaries*, Part I, pp. 1–158.

Department of State and by the Department of Defense. Their welfare, indeed, is not only our concern but our responsibility.

Unfortunately, some of the statements made before this committee, and much that has appeared in public print, reflect basic misconceptions and misinformation. Our efforts to inform the American people on the very important matter with which this committee is concerned have apparently been less successful than we had hoped. It is for that reason that the Department is particularly grateful for the opportunity you have offered this morning to inform and to explain to this committee, and to the American people, what are the basic issues involved, what is the legal situation, and what are the facts.

By way of preface to my remarks, let me summarize what we believe to be the situation. We believe that the arrangements we do have are, in general, the best that we can obtain today. We believe that maintaining these arrangements, while remaining ever on the alert to protect the individual member of our forces against possible error or abuse, is in the national interest. We believe that these arrangements are reasonable and practicable and represent considerable concessions to the viewpoint of the United States by our allies. We believe that the experience to date—which the representative of Defense [1] is prepared to summarize for you—shows that our status-of-forces arrangements have worked in favor of the members of our military forces abroad.

This experience, as you will see, shows how small is the percentage of servicemen tried by foreign courts and how few of these were actually sent to jail. As to the handful who went to jail, we can say this: In every one of these cases a United States representative carefully followed the trial. In not one of these cases do we believe that an innocent man has gone to jail. In not one of these cases did we feel warranted in objecting that there had been an unfair trial. In not one of these cases was there cruel or unusual punishment. In not one of these cases can we say that the sentence meted out was substantially more severe than that which would probably have been imposed by a United States court martial.

In the history of American treatymaking there have been few agreements more carefully and painstakingly negotiated than the NATO Status of Forces Agreement. There are few agreements which have received more widespread support from military and diplomatic officials familiar with the circumstances. The terms of the agreement were worked out by diplomatic and military officials of two administrations. The treaty was presented to the Senate by President Eisenhower [2] and received his full support, as well as that of Secretary Dulles, and Secretary Wilson, General Bradley, Chairman of the Joint Chiefs of Staff, General Ridgway, Supreme Allied Commander in Europe, and Admiral McCormick, Supreme Allied Commander in the Atlantic. In the Senate the treaty received careful consideration, much of it centering on the issue of criminal jurisdiction with which you are now concerned. The Senate approved the treaty by a 72–15 vote. Among its supporters were Senator Knowland, Senator Taft, Senator George, and Senator Johnson. Yet there is today a certain amount of confusion concerning the meaning of the status-of-forces treaty.

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[1] Wilber M. Brucker, General Counsel, Department of Defense; for the text of the statement, see *ibid.*, pp. 170 ff.

[2] Message of Feb. 27, 1953; S. Exec. B, 83d Cong., 1st sess. See also the President's message of June 16, 1952; S. Exec. T, 82d Cong., 2d sess.

BACKGROUND OF AGREEMENT

Earlier in the hearings members of this committee expressed an interest in how the NATO status-of-forces treaty came about. When the United States decided that the defense of this country and of the free world required the stationing of American forces on foreign soil, we were concerned to assure these forces the maximum protection possible. Recognizing that, unless there were agreements with the governments concerned, our troops might be subjected to local jurisdiction for all kinds of offenses, even those committed while the serviceman was on duty, bilateral arrangements were negotiated. These were interim arrangements in the form of executive agreements, varying from country to country. The lack of uniformity and the interim character of the arrangements raised problems in various countries. When the North Atlantic Treaty came into force and an integrated Western defense was begun, it became clear that a more formal and more permanent definition of status was necessary. Everyone agreed that it should be arrived at on a uniform and multilateral basis. It was also necessary to deal with many other subjects, such as travel, customs, taxes, civil claims, etc. (In the NATO status-of-forces treaty the article on criminal law is only 1 of 20.)

The status of forces of one friendly power in the country of another in time of peace had already been the subject of negotiation among the countries of Europe. The Brussels Agreement of 1949 governing the status of forces of Western Union powers[1] had established a precedent which the European countries thought should be continued in the NATO framework. This became the basis for study, but the United States sought to assure greater protections for our servicemen.

The countries involved in the North Atlantic Treaty Organization believe that their system of justice is civilized and fair. They were not willing to recognize an extralegal status for forces of other friendly states. Although some of them feel as strongly as we do about protecting the members of their forces, they were willing, in the common defense, to send forces to friendly states, recognizing that they would be subject to the jurisdiction of those states, within certain limitations to be established in the status-of-forces treaty, and they believed that the other NATO members should be willing to do likewise.

The United States sought to obtain for its forces the maximum privileges and protection possible. We sought and obtained more, in most countries, than was granted by the interim arrangements. Of course, we could not ask, in a multilateral agreement, for provisions which we were not prepared to grant in the United States. We believe that the NATO status-of-forces treaty was, and is, in the circumstances, the best possible multilateral agreement obtainable.

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[1] Agreement of Dec. 21, 1949; Department of State *Bulletin*, Mar. 20, 1950, pp. 449–453. For the text of the Brussels Treaty of Mar. 13, 1948, under which the 1949 agreement was negotiated, see *supra*, pp. 968–971.

One principal source of confusion about the criminal jurisdiction provisions, I believe, is the notion that the treaty gave away something—that it surrendered certain rights and privileges to which American servicemen would otherwise have been entitled. Now this idea is simply not true. It is without foundation. The contrary is true. As Attorney General Brownell has testified, the treaty gained certain important rights and privileges for American servicemen abroad that they would not otherwise possess. That was one of the principal purposes of the treaty, and that has been its principal effect.

The major criticism directed against the criminal jurisdiction provisions of the treaty stems from the fact that, under its terms, foreign law-enforcement agencies retain a measure of jurisdiction over American servicemen who are accused of crimes. Somehow, the idea arose that the treaty *gave* foreign governments this criminal jurisdiction. This idea seems to be based on the false premise that the soldiers of one country who are stationed in another country normally remain under the exclusive jurisdiction of their commanders and are not subject to local laws. I understand that certain American judicial opinions have been cited to support this view.

VIEWS OF JUSTICE DEPARTMENT

The committee will hear from the representative of the Department of Justice. I should like, nevertheless, to read the committee Attorney General Brownell's conclusions about the treaty. Before the Senate Foreign Relations Committee considering the treaty, he said, in part:

> . . . we believe that this does not change the rule of international law to the detriment of any American citizen.
>
> Now our second conclusion is that the treaty affords to our forces abroad more immunity from local criminal jurisdiction than they would have in the absence of an agreement.
>
> Our third conclusion is that this treaty affords our forces abroad more immunity than is afforded under the agreements which we think are directly comparable.
>
> And our final conclusion is that the treaty gives to the members of our forces when they are to be tried in the courts of the receiving state adequate safeguards in accordance with civilized standards of justice.[1]

Even if the legal conclusions were disputable, however, we cannot escape the hard facts. The governments of allied countries—the governments directly concerned here—certainly do not recognize legal doctrines like that suggested. They are sovereign nations. As such, they have criminal jurisdiction over every individual accused of offenses within their boundaries—whether soldier or civilian, whether citizen or alien—unless they voluntarily choose to waive this jurisdiction. Under longstanding custom they have waived it in the case of certain diplomatic officials. Under wartime conditions they have sometimes waived it with respect to allied military personnel. Under the Status of Forces Agreement they have waived a considerable part of their jurisdiction with respect to allied soldiers stationed in their country in peacetime. But the choice always lies with the sovereign host government. If it does not waive its jurisdiction or modify it, it retains jurisdiction, and this applies to soldiers as well as to tourists and businessmen who are visiting its country.

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[1] See *Agreements Relating to Status of North Atlantic Treaty Organization, Armed Forces and Military Headquarters: Hearings before the Committee on Foreign Relations, United States Senate, 83d Congress, 1st Session . . ., April 7 and 8, 1953.*

In the absence of the status-of-forces treaty or other voluntary waiver, therefore, these governments would have the right to arrest and try any American accused of criminal offenses within their borders. If the treaty now existing should be revoked, that is exactly the situation that would immediately come into being. For this reason, it is entirely incorrect to argue that, if we got rid of the status-of-forces treaty, the rights of American soldiers abroad would be restored. As Attorney General Brownell said, without the NATO agreement our forces would have much less and would be worse off.

Now, in view of the fact that foreign governments normally have full jurisdiction over military and civilian personnel within their boundaries, there are some who recognize that the treaty has added substantially to the protection afforded American servicemen but who nevertheless argue that allied governments should have gone even further than they did. They believe that the United States Government, in return for assigning soldiers, sailors, and airmen abroad, should demand that allied governments completely surrender their criminal jurisdiction over these troops. In effect, they seem to be saying that American forces are sent abroad as a special favor to allied nations and that these nations ought to be willing to give up a part of their sovereign authority in payment for this favor. If these governments are unwilling to do this, it is argued, the United States should withdraw its troops.

NATO FORCES AND COLLECTIVE SECURITY

This argument raises the gravest issues of foreign policy and national security. This committee has by its action on legislation indicated its understanding of the reasons for stationing American servicemen abroad and of the international circumstances which make this action essential to our national safety. Nevertheless, it may be useful to review briefly some of the basic principles upon which the NATO alliance is founded. The Status of Forces Agreement can only be understood within the context of the broader collective security system of which it is a part.

This country long ago accepted the fact that the only true security available in this modern world is collective security. The Congress has demonstrated time and again its recognition of this proposition. We have entered alliances with many countries throughout the world, not just to protect other nations but also to protect ourselves. One of the most important of these alliances is the North Atlantic Treaty Organization. Our NATO allies have raised sizable military forces and now have more men under arms than we do. They are producing military equipment and supplies in significant quantities. They have provided many important ports and bases for the common defense. While the United States Government has contributed substantial amounts in money and equipment to support their defense efforts, these governments are paying most of the cost themselves. As a result they are supplying more military power to supplement and reinforce American defense efforts than we can find anywhere else in the world. NATO represents our first line of defense, and the degree of its effectiveness has a tremendous impact upon the dependability of our own national defense system. To put it simply, the success of NATO may make the difference between war and peace—may some day determine whether millions of Americans will live or die.

U. S. TROOPS INDISPENSABLE TO NATO

As part of our contribution to the NATO partnership, we have stationed a sizable number of U. S. military forces in Europe. While these forces are a minority of the total, their presence is indispensable to NATO. In political and psychological terms their presence demonstrates our continuing determination to participate actively in the Atlantic defense system. In military terms they represent a body of trained and skilled manpower for which no substitution from European sources is practical. They operate ports and air bases and other technical facilities which are vital to effective defense in modern warfare. Our allies want these troops to stay in Europe. We recognize the need to have them there. They are part of an overall pattern of defense which could not be disrupted without fatal injury to the entire structure.

The important point for us to remember is that American troops are not in Europe as a favor to our allies. Their principal purpose is to protect the United States itself. They are there because we know that we can get more total protection by combining our strength with that of other nations than by standing alone. They are there because we want to prevent war altogether—to stop it before it starts. And if war comes despite our best efforts to prevent it, these military forces are in the place where they can do the most good—where they can help to halt an enemy attack and to retaliate with immediate and devastating effect. No credence is given today to the idea that American soldiers, sailors, and airmen can best protect American citizens by staying at home and waiting for an enemy to strike the United States.

Let me repeat—American troops are not in allied countries as a favor to our allies. We know this, and our allies know it. It would be ridiculous for us to try to pretend that our troops are there just to help them. It is impossible for us to say, "Put Americans above the law or we'll go home," because it is not in our own interest to go home, any more than it is in their interest for us to go home. Only one interest would be served by the withdrawal of American forces from Europe, and that is the interest of Communist imperialism.

The Communists themselves are well aware of this fact. Most of you know, I am sure, that the Communists have labored increasingly to get American troops out of Europe. You will note that one key element of most recent Soviet proposals is to eliminate U. S. bases in Europe and to get American troops out. Local Communist parties are constantly carrying on propaganda campaigns to convince the local population that American soldiers should go home. They are constantly trying to stir up trouble between our troops and local citizens. They know that Europeans have bad memories of previous military occupation, and so they try to pretend that our troops are "occupation forces." To support this theme, the Communists steadily criticize local officials for giving privileges to American troops and argue loudly that the Status of Forces Agreement has given away *too much* of the local government's authority. Adding all these things together we can see clearly that the withdrawal of American forces from Europe is a major Communist objective, because they know that such action would weaken American defense as well as European defense.

In the context of the mutual defense program conducted through NATO, I believe the Status of Forces Agreement can be viewed in better perspective. NATO has not only led to the stationing of American troops in Europe; it has also made necessary the stationing of troops from several European countries in other European countries. One aspect of the Mutual Security Program involves the assignment of thousands of allied servicemen to the United States each year for special training. All these exchanges of military personnel inevitably produce certain administrative and personal problems. In wartime, most of these problems seem relatively minor. When soldiers are dying every day under enemy fire, there is little tendency to worry very much about secondary sacrifices and inconveniences. In peacetime, however, it is more difficult for people to accept the necessity of these inconveniences. It is sometimes hard to realize the full importance of success on our part in fighting the "cold war"—in conducting a dynamic peace effort to prevent war.

CRIMINAL JURISDICTION OF HOST GOVERNMENT

It is natural that we should try to minimize the personal difficulties that result from the stationing of troops of certain NATO countries in other NATO countries. One of the most thorny problems is that of criminal jurisdiction. Under normal circumstances, as we have seen, the sovereign host government has criminal jurisdiction. In the absence of waiver by the host country, military personnel would be subject to local jurisdiction, as are local citizens or visiting businessmen or tourists. The United States Government believes that these military personnel deserve special protection. Most allied governments agree with this principle. During World War II, in fact, there were various legislative enactments and special agreements that provided special protection. However, as the time for the expiration of these wartime agreements drew near, it became necessary for the NATO governments to work out new arrangements which would afford protection to individual servicemen consistent with the sovereign authority of the host countries. It is strangely ironic that this effort should later have been interpreted as a denial or surrender of American rights, when in fact American servicemen have gained substantial advantages.

Let's take a look at some of these advantages. In the first place, the Status of Forces Agreement provides that United States servicemen remain under United States jurisdiction with respect to offenses committed while on duty. In other words, foreign governments have voluntarily limited their jurisdiction to criminal offenses occurring while soldiers are off duty, on leave, or a.w.o.l. President Eisenhower once addressed himself to this important feature of the agreement. He said, in effect, that he believed servicemen deserved special treatment while carrying out their assignments but that, when these servicemen were on leave and were following personal interests, they should be subject to the same basic responsibilities as other citizens.

Next, even if a serviceman is accused of an offense during his off-duty hours, United States authorities have the right to request local law enforcement agencies to waive jurisdiction and turn the man over to the United States military commanders for trial and punishment. The treaty provides that the local authorities shall give sympathetic consideration to such requests. As the representative of the Department of Defense will be prepared to testify, jurisdiction has been waived voluntarily in the overwhelming majority of cases.

Finally, in those cases where the local authorities believe they must retain criminal jurisdiction, the Status of Forces Agreement guarantees certain basic rights to the American serviceman. They are comparable to the safeguards which the serviceman would enjoy in a United States court martial. For example, he has the right to counsel. He has the right to confrontation by witnesses. He has the right to use of compulsory process for the purpose of obtaining witnesses in his own behalf. He has the right to contact United States military authorities. He has the right to have United States officials present at his trial when rules of the court permit, and in practice a United States representative has never been barred from the trial. Attorney General Brownell has testified that these provisions add up to "adequate safeguards in accordance with civilized standards of justice." These and other rights would not necessarily be available if the Status of Forces Agreement did not exist.

Results of the Agreement

It has often been said that "the test of the pudding is in the eating." I think all of you are undoubtedly interested in knowing how the agreement has worked out in actual practice. The detailed information will be presented by the Department of Defense. However, I should like to summarize in general terms the results of the agreement thus far.

In general, both the Department of State and the Department of Defense agree that the status-of-forces arrangements have worked unusually well. This view is supported by the commanders in the field. Some commanders apparently feel that the local courts have actually been too lenient on American offenders. As I have said, of the very small number who were sentenced to prison by a foreign court there was not a single case in which we have a clear feeling that a court martial would have given a *lighter* sentence than that imposed by the local court. There was not a single case in which there was a basis for the United States to protest that the safeguards assured by the Status of Forces Agreement for a fair trial were not met, or that there was any other unfairness. There has been not a single instance of cruel or unusual punishment. A United States representative has been present at every one of the trials in these cases.

Of the many American servicemen, military employees, and dependents sent abroad, where the NATO status-of-forces treaty applied, there have been approximately 6,000 cases which fell within the primary jurisdiction of the local courts. In some 70 percent of these cases the local authorities have either dropped the charges entirely or waived jurisdiction voluntarily and have surrendered the accused person to United States military authorities. In the very large majority of the cases where Americans have stood trials, the courts have either found the accused innocent or have only imposed a fine. Out of the many hundreds of thousands of service personnel abroad, out of a total of 6,000 cases, only 85 persons have been imprisoned by local authorities in NATO countries, and, as of May 31, 1955, only 22 were actually in prison in these countries. Most of these sentences have been very short. The maximum sentence thus far imposed is 5 years for highway robbery with violence at night by two men against an old taxi driver.

Offenses Arousing Strong Local Feeling

You will note from the figures mentioned that local authorities have usually been quite willing to grant waivers of jurisdiction. In many instances, one might say, the cases for which we have been unable to obtain waivers and which have led to sentences of imprisonment have involved offenses arousing strong local feeling. Even in these cases, the courts have acted with moderation and have often been criticized for doing so. A British newspaper, for example, complained bitterly several months ago that an American soldier normally gets fined 10 shillings for an offense which would cause a local citizen to spend 6 months in jail. I do not know whether this complaint is justified, but I mention it to illustrate that there are definitely two sides to this question. When an American soldier assaults, robs, or murders a local citizen, you have a political and emotional problem on your hands that is not too easy to settle unless it is handled in a spirit of justice and mutual understanding.

I have concentrated on the NATO countries and the NATO Status of Forces Agreement because of the importance of NATO in our foreign policy, as well as because the resolution introduced in the House of Representatives also concentrated on the NATO status-of-forces treaty. In fact, there are more or less formal arrangements governing the status of our forces wherever they are stationed. Some of these agreements or arrangements must remain confidential. Let me explain. These arrangements are not classified at our request because of any desire by the executive branch to keep something hidden. They are classified at the request of the other governments involved largely because of the generosity of these arrangements to our forces. We could not, of course, reveal a classified international agreement without the consent of the other party. Nor is it in our interest to publicize these favorable arrangements. To do so would jeopardize the arrangements and render it unlikely that our servicemen could continue to enjoy the benefits which they confer. We can assure the committee that the arrangements generally have worked no less favorably to the interests of our servicemen than the NATO Status of Forces Agreement.

As to the experience in the non-NATO countries generally, the Department of Defense will be able to give you the figures and facts; in general, the experience is the same as or, in some cases, even better than in the NATO countries, both as regards the high percentage of waivers and the fairness of treatment.

CIVILIANS SELDOM HAVE IMMUNITY

Questions have been raised before this committee about the diplomatic status of State Department and other civilian officials. In the first place, it should be made clear that the great majority of State Department personnel overseas do *not* have immunity from local criminal jurisdiction. On the contrary, most United States civilian officers and employees abroad, including those of other governmental agencies as well as the State Department, have neither immunity nor the special guaranties provided United States servicemen by the Status of Forces Agreement. They are completely subject to local criminal jurisdiction, whether on duty or off duty.

A small minority possesses diplomatic immunity by long custom and tradition. This immunity is granted not for the advantage of the individual but for the benefit of the government he is representing, and the government can waive, and has waived, the immunity. And our diplomatic personnel are often required to live and work in hostile lands where immunity is essential to their work and to their safety. This immunity is enjoyed by a small number of people who, in fact, represent their government, and military officers who represent the United States (e. g., our MAAG [Military Assistance Advisory Group] officers) also enjoy diplomatic status.

Incidentally, nobody has diplomatic immunity except in the country to which he is accredited. So, even Secretary Dulles does not strictly have diplomatic immunity when he is abroad, since he is not accredited to any of the governments. And even an ambassador has diplomatic immunity only where he is accredited, not when he is on vacation in another country. A diplomatic passport by itself gives no immunity from jurisdiction.

THEORETICAL ALTERNATIVES

As I see it, there are three theoretical alternatives suggested, or implied, by those who attack the treaty. None of them is good.

First, we might try to revoke the treaty. Even if we were willing to ignore the solemn commitment undertaken by the United States with the overwhelming consent of the Senate, it should be clear that revocation of the agreement—or denouncing it—would not be an acceptable alternative. Revocation or denunciation would merely leave foreign jurisdiction undiminished and remove the guaranties now assured to an individual serviceman. I don't think anyone desires this result.

The second alternative is to withdraw American forces from NATO. This action would make no sense either in terms of our foreign policy or our national defense. It would play into the hands of the Communists and permit them to achieve one of their most eagerly sought objectives. It would gravely weaken Europe and gravely weaken our own security. I think it would be a catastrophe for free nations to wreck their entire system of collective defense simply because of their inability to agree on reasonable arrangements for handling an admittedly difficult legal and administrative problem. Nothing could do more to justify the ancient Communist theory that the free nations are incapable of long-term cooperation and will eventually be divided by conflicts among themselves. Nothing could do more to free the Soviet empire from the fear that any aggression on its part will be met by instantaneous retaliation—a fear that has served as a powerful deterrent to Soviet aggression.

The third alternative, of course, would be to try to negotiate a new agreement. Because of a widespread feeling in many areas that allied authorities have been excessively lenient toward Americans, political pressures might cause a new agreement to be considerably less favorable to United States servicemen. In any event, it can be safely predicted that a new agreement would not solve the fundamental problem posed by the critics of the present agreement—that allied governments would not surrender all criminal jurisdiction over American forces. For just a moment, let us look at this problem from their viewpoint.

Our allies know, as we do, that the cold war may continue for a long time. We all hope that we will be able to maintain a collective defense system as long as the threat exists. Could sovereign governments permit United States armed forces to remain "above the law"—to constitute a sort of "state within a state"—for an indefinite period of time?

As I have mentioned, these governments are already under attack for special treatment given to American servicemen. Their leaders are responsible to the people just as ours are and are necessarily guided by similar political considerations. Would they be able to sign and secure ratification of a new agreement which would deprive local law enforcement authorities of all power to deal with crimes committed by Americans within their communities? I think not.

If American forces should be made completely immune to local jurisdiction, or even if this immunity should be seriously proposed, we could be sure that the Communist propagandists would have a field day. Their phony claim that American troops are "occupation forces" would be given color, and they would have vastly increased opportunities to nourish and exploit resentments among the local population.

RECIPROCITY

We must also remember that this treaty provides for reciprocity in the treatment of servicemen. Countries other than the United States are concerned, and it is essential that the rules which apply to one nation should apply to all. While the number of NATO military personnel stationed in this country is comparatively small, it is doubtful that our federal and state governments would wish to surrender all criminal jurisdiction over these visitors. The Senate Foreign Relations Committee in recommending consent to ratification of the NATO Status of Forces Agreement agreed that the United States should not divest itself entirely of jurisdiction over foreign servicemen in this country.[1]

QUESTION OF SOVEREIGNTY

Finally, is it reasonable that any free nation demand that its allies surrender a fundamental aspect of their sovereignty as the price of cooperation? We Americans and other Western peoples have vigorously and justifiably criticized the Soviet Union for reducing the nations of Eastern Europe to the status of satellites. We do not expect our allies to be satellites. None of these countries would accept a satellite role.

The Status of Forces Agreement goes to the very heart of American foreign policy. If American troops were not needed in Europe, the Status of Forces Agreement would not be necessary. Instead the troops would be brought home. Furthermore, if it were assumed that the NATO alliance is unimportant—that this country could get along without allies—no doubt the same conclusion would be reached. We recognize that our troops are in Europe to protect our own interests, that the alliance is vital to world peace and the survival of human freedom, and that we must work with our allies on the basis of equality and mutual respect. With that recognition the Status of Forces Agreement can be understood as a reasonable and intelligent effort to solve one of the inevitable problems of international partnership.

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[1] See the committee's report of Apr. 28, 1953; *supra*, doc. 32.

The Work of NATO

35. FIRST SESSION OF THE NORTH ATLANTIC COUNCIL (WASHINGTON): Communiqué, September 17, 1949 [1]

I. [General]

The Council established by Article 9 of the North Atlantic Treaty [2] held its first session in Washington on September 17, 1949. Representatives of the Parties to the Treaty attending this first session were: For Belgium, the Minister of Foreign Affairs, M. Paul van Zeeland; for Canada, the Secretary of State for External Affairs, Mr. Lester B. Pearson; for Denmark, the Minister of Foreign Affairs, Mr. Gustav Rasmussen; for France, the Minister of Foreign Affairs, M. Robert Schuman; for Iceland, the Minister to the United States, Mr. Thor Thors; for Italy, the Minister of Foreign Affairs, Count Sforza; for Luxembourg, the Minister of Foreign Affairs, Mr. Josef Bech; for the Netherlands, the Minister of Foreign Affairs, Mr. Dirk U. Stikker; for Norway, the Minister of Foreign Affairs, Mr. Halvard M. Lange; for Portugal, the Minister of Foreign Affairs, Mr. José Caeiro da Matta; for the United Kingdom, the Secretary of State for Foreign Affairs, Mr. Ernest Bevin; for the United States, the Secretary of State, Mr. Dean Acheson.

The task of the Council is to assist the Parties in implementing the Treaty and particularly in attaining its basic objective. That objective is to assist, in accordance with the Charter, in achieving the primary purpose of the United Nations—the maintenance of international peace and security. The Treaty is designed to do so by making clear the determination of the Parties collectively to preserve their common heritage of freedom and to defend themselves against aggression while emphasizing at the same time their desire to live in peace with all governments and all peoples.

It is in this spirit that the Foreign Ministers of the Parties have met in Washington and have taken steps to implement the Treaty. The meetings of the Council showed that all parties are united in their resolve to integrate their efforts for the promotion of lasting peace, the preservation of their common heritage and the strengthening of their common defense.

The main purpose of the Council during this first session was to provide for its own future operation and, in accordance with Article 9, to establish a Defense Committee and such other subsidiary bodies as are deemed necessary to assist the Council in considering matters concerning the implementation of the North Atlantic Treaty.

II. Organization

The Council is the principal body in the North Atlantic Treaty Organization. In accordance with the Treaty, the Council is charged with the responsibility of considering all matters concerning the implementation of the provisions of the Treaty. Such subsidiary bodies as are set up under Article 9 of the Treaty are subordinate to the Council.

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[1] Department of State *Bulletin*, Sept. 26, 1949, pp. 469–472.

[2] Treaty of Apr. 4, 1949; *supra*, pp. 812–815.

The organization established under the North Atlantic Treaty should be operated with as much flexibility as possible and be subject to review from time to time. The establishment of this machinery does not preclude the use of other means for consultation and cooperation between any or all of the Parties on matters relating to the Treaty.

III. Council

As regards its own organization, the Council agreed as follows:

As decided on April 2, the Council will normally be composed of Foreign Ministers.[1] Should the latter be unable to attend, their places shall be taken by plenipotentiary representatives designated by the Parties. To enable the Council to meet promptly at any time the diplomatic representatives in Washington of the Parties shall be empowered to act as their Government's representatives whenever necessary.

Terms of Reference

The North Atlantic Treaty shall constitute the terms of reference of the Council.

Time and Frequency of Sessions

The Council shall be convened by the Chairman and shall meet in ordinary session annually and at such other times as may be deemed desirable by the majority of the Parties. Extraordinary sessions under Articles 4 and 5 of the Treaty may be called at the request of any Party invoking one of these Articles.

Location of the Council Sessions

The location of each session of the Council shall be determined by the Chairman after consultation with the other members of the Council. For general convenience the ordinary annual session should normally be held at about the same time and in the same general geographical area as the annual session of the General Assembly. Other ordinary sessions should whenever practicable be held at some convenient location in Europe.

Chairmanship

Chairmanship shall be held in turn by the Parties according to the alphabetical order in the English language beginning with the United States. Each Party shall hold the office from the beginning of one ordinary annual session until the appointment of the new Chairman at the following ordinary annual session. If any Party does not wish to accept the Chairmanship, it shall pass to the next Party in alphabetical order.

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[1] See the communiqué of Apr. 2, 1949, released by the Foreign Ministers meeting in Washington prior to their signing the North Atlantic Treaty; Department of State *Bulletin*, Apr. 10, 1949, p. 458.

Languages

English and French shall be the official languages for the entire North Atlantic Treaty Organization.

Permanent Coordination

Additional political bodies shall not be established unless and until experience has demonstrated their need. However, the existing informal arrangement for consultation between representatives in Washington of the Parties shall be maintained.

IV. Defense Committee

The Council established a Defense Committee.

The Council reaffirmed that ensuring the security of the North tlantic area is a primary objective of the North Atlantic Treaty and is vital to the security of each of the Parties. It is therefore of paramount importance that the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, maintain and develop their individual and collective capacity to resist armed attack. The Defense Committee should therefore immediately take the requisite steps to have drawn up unified defense plans for the North Atlantic area.

As regards the organization of the Defense Committee, the Council agreed as follows:

The Defense Committee will be composed of one representative from each Party. These representatives will normally be Defense Ministers. In any case where this is not possible, another representative may be designated.

Terms of Reference

The Defense Committee shall recommend measures for the implementation of Articles 3 and 5 in accordance with general policy guidance given by the Council.

Time and Frequency of Sessions

The Defense Committee shall be convened by the Chairman and shall meet in ordinary session annually and at such other times as it may be requested to meet by the Council or as may be deemed desirable by the majority of the members of the Defense Committee.

Location

The location of each session of the Defense Committee shall be determined by the Chairman in consultation with the members of the Committee.

Chairmanship

Chairmanship shall be held in turn by the Parties according to the alphabetical order in the English language beginning with the

United States. Each Party shall hold the office from the beginning of one ordinary annual session until the appointment of the new Chairman at the following ordinary annual session. If any Party does not wish to accept the Chairmanship, it shall pass to the next Party in alphabetical order.

The Council suggested to the Defense Committee the general outline of those subsidiary military bodies which it considered appropriate for the task of aiding the Defense Committee in recommending measures for the implementation of Articles 3 and 5 of the Treaty. The Defense Committee was invited, among other things, to consider the question of these subsidiary bodies in detail and to elaborate on the general provisions suggested by the Council for each body.

V. Military Committee

The Council suggested in general terms that the military organization should include the following:

The Defense Committee should establish a Military Committee composed of one military representative from each Party. These representatives should be Chiefs of Staff or their representatives. (Iceland, having no military establishment may, if it so desires, be represented by a civilian official.)

Terms of Reference

The Military Committee should:

provide general policy guidance of a military nature to its Standing Group;

advise the Defense Committee and other agencies on military matters as appropriate;

recommend to the Defense Committee military measures for the unified defense of the North Atlantic area.

Location

The Military Committee should normally meet in Washington.

Standing Group

In order to facilitate the rapid and efficient conduct of the work of the Military Committee, there should be set up a sub-committee of that body to be known as the "Standing Group". The Standing Group should be composed of one representative each of France, the United Kingdom, and the United States.

Terms of Reference

The Standing Group, in accordance with general policy guidance provided by the Military Committee, should provide such specific policy guidance and information of a military nature to the Regional Planning Groups and any other bodies of the organization as is necessary for their work.

To achieve the unified defense of the North Atlantic area, the Standing Group should coordinate and integrate the defense plans originating in the Regional Planning Groups, and should make appropriate recommendations thereon to the Military Committee.

The Standing Group should recommend to the Military Committee those matters on which the Standing Group should be authorized to take action in the name of the Military Committee within the framework of approved policy.

It is recognized that it is the responsibility of individual governments to provide for the implementation of plans to which they have agreed. It is further recognized that it is the primary responsibility of the Regional Planning Groups to prepare plans for the defense of their respective regions. Subject to these principles, it is understood that before the Standing Group makes recommendations on any plan or course of action involving the use of forces, facilities, or resources of a Party not represented on the Standing Group, going beyond or differing from arrangements previously agreed by the Party concerned, the Party should have the right to participate in the Standing Group in the work of formulating such recommendations. It is also understood that when communicating their regional plans to the Standing Group, the Regional Planning Groups should be entitled to have their plans presented and explained by any one of their members and not necessarily by a member of the Standing Group.

Time and Frequency of Sessions

The Standing Group should be so organized as to function continuously.

Location

The permanent site of the Standing Group should be in Washington.

Permanent Representation

In order to maintain close contact with the Standing Group, a Party not represented thereon may appoint a special representative to provide permanent liaison with the Standing Group.

VI. Regional Planning Groups

In order to ensure speedy and efficient planning of the unified defense of the whole North Atlantic area there should be established Regional Planning Groups on a geographical basis. It should be provided that:

(1) before any Regional Planning Group makes any recommendations affecting the defense of the territory or involving the use of forces, facilities, or resources of any Party not a member of that Group, that Party should have the right to participate in the Group in the work of formulating such recommendations; (2) any Group which considers that a Party not a member of the Group can contribute to the defense planning of that Group's region, can call upon that Party to join in the planning as appropriate.

Composition

Northern European Regional Planning Group

Denmark, Norway, and the United Kingdom.

The United States has been requested and has agreed to participate actively in the defense planning as appropriate.

Other Parties may participate under the provisions listed above.

Western European Regional Planning Group

Belgium, France, Luxembourg, the Netherlands, and the United Kingdom.

Canada and the United States have been requested and have agreed to participate actively in the defense planning as appropriate.

Other Parties may and in particular Denmark and Italy will, participate under the provisions listed above.

Southern European–Western Mediterranean Regional Planning Group

France, Italy, and the United Kingdom.

The United States has been requested and has agreed to participate actively in the defense planning as appropriate.

Other Parties may participate under the provisions listed above.

It is recognized that there are problems which are clearly common to the defense of the areas covered by the three European regional groups. It is therefore important that arrangements be made by the Defense Committee with a view to ensuring full cooperation between two, or if the need arises, all three groups.

Canadian–United States Regional Planning Group

Canada and the United States.

Other Parties may participate under the provisions listed above.

North Atlantic Ocean Regional Planning Group

Belgium, Canada, Denmark, France, Iceland, the Netherlands, Norway, Portugal, the United Kingdom and the United States.

The responsibilities for planning the defenses in the North Atlantic Ocean cannot be shared equally by all members of the Group. On the other hand, these responsibilities can to some extent be divided along functional lines and allocated to those Parties who are best able to perform the respective defense functions. Therefore, the North Atlantic Ocean Regional Planning Group when it meets, should establish a series of planning sub-groups related to specific functions of defense. The Group should determine on which sub-group or sub-groups each Party should sit, and the arrangements necessary to ensure coordination between these sub-groups in the interest of speedy and effective planning.

Terms of Reference

Each Regional Planning Group should:

develop and recommend to the Military Committee through the Standing Group plans for the defense of the region;

cooperate with the other Regional Planning Groups with a view to eliminating conflict in, and ensuring harmony among, the various regional plans.

Location

The Defense Committee should consider the question of the location of the Regional Planning Groups.

VII. [Military Production]

The Council recognizes that the question of military production and supply is an integral part of the whole problem of the defense of the North Atlantic area. Consequently, there shall be established as soon as possible appropriate machinery to consider these matters. The details of organization of this machinery, terms of reference, etc., shall be studied forthwith by a working group which shall submit recommendations to the Defense Committee or to the Council.[1]

VIII. [Economic Arrangements]

The Council recognizes the importance of economic and financial factors in the development and implementation of military plans for the defense of the North Atlantic area. Consequently, there shall be established as soon as possible appropriate machinery to consider these matters. The details of organization of this machinery, terms of reference, etc., shall be studied forthwith by a working group which shall submit recommendations to the Council.[2]

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36. SECOND SESSION OF THE NORTH ATLANTIC COUNCIL (WASHINGTON): Communiqué, November 18, 1949 [3]

The North Atlantic Council convened today in Washington in its second session. The Council considered and approved a report of the Working Group on the establishment of a "Defense Financial and Economic Committee" under the North Atlantic Treaty as follows:

I

1. In accordance with the decision of the North Atlantic Council on September 17, 1949 [4] and in further implementation of Article 9 of the Treaty,[5] there is hereby established a Defense Financial and Economic Committee. It shall be responsible for advising the Council on the financial and economic aspects of measures for the defense of the North Atlantic area.

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[1] See the communiqué of the Second Session of the North Atlantic Council, Nov. 18, 1949; *infra.*

[2] *Ibid.*

[3] Department of State *Bulletin,* Nov. 28, 1949, pp. 819–821.

[4] See Section VIII of the Final Communiqué of the First Session of the North Atlantic Council, *supra.*

[5] Treaty of Apr. 4, 1949; *supra,* pp. 812–815.

II

The following general provisions shall govern the operation of the Defense Financial and Economic Committee:

1. The Defense Financial and Economic Committee shall be composed of a representative at a ministerial or similarly high level of responsibility from each signatory country. It shall report directly to the North Atlantic Council. It shall consult with the Defense Committee [1] as appropriate.

2. The Committee and any subordinate bodies which it may set up shall establish and maintain close working relations with the North Atlantic military organization, and particularly the Military Production and Supply Board.[2] The Committee or its subordinate bodies shall provide them with guidance on all relevant economic and financial factors; shall obtain from them information on those requirements of defense programs which are relevant to the consideration of economic and financial questions; and shall provide them with guidance on financial and economic arrangements to meet the requirements of defense programs.

3. The Defense Financial and Economic Committee is, in particular, responsible to the North Atlantic Council for the performance of the following functions, having regard for the principle of self-help and mutual aid in the field of military production and supply, and for the primary importance of economic recovery and continued economic stability:

(1) To develop in cooperation with the Military Committee (including the Standing Group)[3] and the Military Production and Supply Board overall financial and economic guides to and limits of future defense programs, including military production programs, which NAT countries as a group and individually should undertake within available financial and economic resources.

(2) To appraise the financial and economic impact on member countries of major individual defense projects formulated by the Military Production and Supply Board or the Military Committee (including the Standing Group), including consideration of financing problems and availability of raw materials, capital equipment, and manpower, and, on [the] basis of such review, make recommendations as to action on such projects.

(3) To recommend financial arrangements for executing military defense plans, and particularly financial arrangements for the interchange among NAT countries of military equipment, surplus stocks, or materials and equipment to be used in producing military equipment.

(4) To measure and to recommend steps to meet the foreign ex-

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[1] Established by Section IV of the Final Communiqué of the First Session of the North Atlantic Council.

[2] Established in the second part of the present communiqué.

[3] Both established by Section V of the Final Communiqué of the First Session of the North Atlantic Council.

change costs of imports of materials and equipment from non-member countries required by defense programs under the NAT.

(5) To consider, as may be found desirable and appropriate, plans for the mobilization of economic and financial resources in time of emergency.

4. The Committee may delegate to any Regional Defense Financial and Economic Committee which may be established by the Governments of a Region any of its functions which, in its judgment, can be better performed by regional committees. Actions of regional committees under such delegations shall be under the general guidance of, and in accordance with the general policies laid down by the North Atlantic Committee, and shall be subject to its coordination and review.

5. The Committee shall provide itself with such subordinate bodies and staff assistance as may be necessary to carry out its functions. In particular, there shall be a permanent working staff in London, composed of qualified personnel representing interested countries, to carry on the day-to-day work of the Committee and to which the Committee may delegate such of its functions as it deems appropriate. The Committee shall have a Secretary, with suitable assistance, to perform secretarial and administrative functions.

6. The Committee shall meet at such times and places as may be required. Its secretariat and working staff shall be located in London. The Committee shall decide its own rules of procedure. Chairmanship shall be held in turn by the parties according to the alphabetical order in the English language beginning with the United States. Each party shall hold the office for one year. If any party does not wish to accept the Chairmanship, it shall pass to the next party in alphabetical order.

The Council took note of and approved the action of the Defense Committee in establishing a "Military Production and Supply Board". . . . The Council approved the directive issued by the Defense Committee in establishing the Military Production and Supply Board.

I

1. In accordance with the decision of the North Atlantic Council on September 17, 1949,[1] and in furtherance of Article 9 of the Treaty, there is hereby established a Military Production and Supply Board.

II

The following general provisions shall govern the operation of the North Atlantic Military Production and Supply Board:

1. The North Atlantic Military Production and Supply Board shall be composed of a representative at the subministerial level from each signatory country. It shall report directly to the Defense Committee.

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[1] See Section VII of the Final Communiqué of the First Session of the North Atlantic Council.

2. The Board shall establish and maintain close working relations with the appropriate military bodies set up under the Defense Committee. It shall look to them for information on military requirements and work with them to insure that, in so far as feasible, the military production and procurement program supports defense plans effectively. The Board shall also work in close coordination with the military bodies on the promotion of standardization of parts and end products of military equipment, and provide them with technical advice on the production and development of new or improved weapons. To facilitate the fullest cooperation and exchange of information between them on matters of joint interest, the Board shall establish and direct a suitably representative liaison group on a working level in Washington to work with the Standing Group.

3. The Board shall maintain close working relations with the finance and economic machinery to be established by the Council, and look to it for guidance on all relevant economic and financial factors.

4. The North Atlantic Military Production and Supply Board is responsible to the Defense Committee for the performance of the following functions, having regard for the principle of self-help and mutual aid in the field of military production and supply:

a. The review of the military supply situation on the basis of data to be secured from the appropriate military bodies on military matériel requirements and on the current availability of military matériel to meet such requirements.

b. The recommendation to the Defense Committee of ways and means of increasing available supplies where they fall short of requirements, either from production, surplus equipment or equipment economically capable of rehabilitation. In preparing such recommendations, account shall be taken of strategic factors, of physical capabilities of individual countries to produce military matériel, of the importance of securing maximum efficiency and integration of production, and of the guidance furnished by the finance and economic machinery with respect to financial and economic considerations.

c. The promotion of more efficient methods for producing military equipment and of the standardization of parts and end products of military equipment, including conservation in the use of strategic and critical materials, and including advice to the appropriate military bodies on the production problems involved in proposed new weapons or modifications in existing weapons.

5. The Board may delegate to any Regional Supply Board which may be established by the Governments of a Region any of its functions which in its judgment, can be better performed by regional boards. Actions of regional boards under such delegations shall be under the general guidance of and in accordance with the general policies laid down by the North Atlantic Board, and shall be subject to its coordination and review.

6. The Board shall provide itself with such subordinate bodies and staff assistance as may be necessary to carry out its functions. In particular, there shall be, in addition to the liaison group in Wash-

ington, referred to in paragraph 2, a permanent working staff in London, composed of qualified personnel representing interested countries, to carry on the day-to-day work of the Board. The Board shall have a Secretary, with suitable assistance, to perform secretarial and administrative functions.

7. The Board shall meet at such times and places as may be required. Its secretariat and working staff shall be located in London. The Board shall decide its own rules of procedure. Chairmanship shall be held in turn by the parties according to the alphabetical order in the English language beginning with the United States. Each party shall hold the office for one year. If any party does not wish to accept the Chairmanship, it is passed to the next party in alphabetical order.

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37. THIRD SESSION OF THE NORTH ATLANTIC COUNCIL (WASHINGTON): Communiqué, January 6, 1950 [1]

The North Atlantic Council met today in Washington in its third session. The United States was represented by Secretary of State Acheson, who is chairman for the first year of the Council's operation. Representatives of the North Atlantic Treaty signatories were: for Belgium, Ambassador Silvercruys; for Canada, Ambassador Wrong; for Denmark, Ambassador de Kauffmann; for France, Ambassador Bonnet; for Iceland, Minister Thors; for Italy, Ambassador Tarchiani; for Luxembourg, Minister Le Gallais; for the Netherlands, Ambassador van Kleffens; for Norway, Ambassador Morgenstierne; for Portugal, Ambassador Pereira; for the United Kingdom, Ambassador Franks.

The Council considered and approved recommendations agreed by the Defense Committee in Paris on December 1, for the integrated defense of the North Atlantic area.[2] These recommendations embody the principles of self-help and mutual aid and will provide the basis for the common defense of the parties.

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38. FOURTH SESSION OF THE NORTH ATLANTIC COUNCIL (LONDON): Communiqué, May 19, 1950 [3]

At the fourth session of the North Atlantic Council in London the Foreign Ministers of the 12 nations of the North Atlantic Treaty considered the principles on which their association is founded and the objectives toward which they are working.

They reaffirmed the adherence of their Governments to the principles which inspire the United Nations Charter and their conviction that common action under the Treaty is an integral part of the effort which all free nations are making to secure conditions of world peace and human welfare.

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[1] Department of State *Bulletin*, Jan. 16, 1950, p. 104.

[2] See the North Atlantic Defense Committee's communiqué of Dec. 1, 1949; *ibid.*, Dec. 19, 1949, p. 948.

[3] *Ibid.*, May 29, 1950, pp. 830–831.

They are determined that freedom, which is the common basis of their institutions, shall be defended against every threat of aggression or subversion, direct or indirect. Freedom means the independence of nations, the respect for spiritual values, and the dignity of man. Only a free society can guarantee to the individual the benefits of economic and social betterment.

They are resolved to secure the economic progress and prosperity of the peoples of their countries and to promote the economic and social development of other peoples of the free world through close cooperation with each other and with other nations. To the immense resources of the free world and its industrial and scientific development, the peoples of the North Atlantic community bring the spiritual strength which comes from freedom.

Conscious of the strength and of the will to peace of their countries, the Ministers remain ready to seize any opportunity for achieving a genuine and lasting settlement of international problems. But for so long as some nations are not willing to cooperate on a basis of equality and mutual respect, they believe that the maintenance of peace and the defense of freedom require the organization of adequate military defense.

The nations of the Atlantic Council are accordingly resolved, by their united efforts, to build up a system of defense equipped with modern weapons and capable of withstanding any external threat directed against any of them.

The Council throughout its deliberations recognized that only through coordinated planning and joint effort could these objectives be achieved.

To this end the Council took the following decisions to improve the functioning of the North Atlantic Treaty Organization and to guide its future work:

1. They decided to establish, by the appointment of deputies, mechanism to permit the Council fully to discharge its role as the principal and directing body of the North Atlantic Treaty.[1]
2. The Council in this connection agreed on principles which should guide the work of the deputies and of the other organizations of the North Atlantic Treaty.
3. The Council, having considered the reports of the Defense Committee and the Defense Financial and Economic Committee, issued directives emphasizing that the problem of adequate military forces and the necessary financial costs should be examined as one and not as separate problems.

In formulating their directives the Council proceeded on the basis that the combined resources of the members of the North Atlantic Treaty are sufficient, if properly coordinated and applied, to insure the progressive and speedy development of adequate military defense without impairing the social and economic progress of these countries.

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[1] See the Council's resolution on central machinery, May 19, 1950; *ibid.*, p. 831.

4. The Council, recognizing the indispensability of self-help and mutual aid among the Treaty powers in making progress toward an integrated defense and, convinced that further mutual assistance is essential to rapid progress towards the strength required for the common security of the North Atlantic area, recommended that each party make its full contribution through mutual assistance in all practicable forms.

5. The Council unanimously agreed that if adequate military defense of the member countries is to be achieved it must be along the lines of the most economical and effective utilization of the forces and material at the disposal of the North Atlantic countries. They accordingly urged their Governments to concentrate on the creation of balanced collective forces in the progressive build-up of the defense of the North Atlantic area, taking at the same time fully into consideration the requirements for national forces which arise out of commitments external to the North Atlantic area.

6. In furtherance of article 9 of the Treaty the Council established a North Atlantic Planning Board for Ocean Shipping to be composed of representatives of the participating countries concerned. This Board will report directly to the Council and will work in close cooperation with other bodies of the Treaty organization in all matters relating to the factor of merchant shipping in defense planning.

The ministers believe that the decisions they have taken here in London represent a marked advance towards the practical realization of the objectives of the North Atlantic Treaty.

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39. FIRST PART OF THE FIFTH SESSION OF THE NORTH ATLANTIC COUNCIL (NEW YORK): Communiqué, September 18, 1950[1]

The North Atlantic Council has devoted its three-day meeting to a thorough discussion of the major questions presented by the urgent need to strengthen collective defense. The Council was determined to proceed with the necessary measures to this end.

The discussions dealt with matters of far-reaching importance and related principally to the creation, in the shortest possible time, of an integrated military force adequate for the defense of freedom in Europe, and to the related questions of the character of participation in the force, its military organization, and matters of supply, finance, and raw materials.

The proposal for such a force supported by appropriate supply and financial arrangements, based on collective effort, was warmly welcomed, and it was decided that the Ministers should promptly consult their Governments as to the way in which such a plan could be put into effect. Many of the problems involved considerations of a character which make such consultations necessary so as to enable definite decisions to be taken promptly.

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[1] Department of State *Bulletin*, Oct. 2, 1950, p. 533.

To permit these consultations to take place, the Council has recessed subject to call by the chairman during the next two weeks.[1]

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40. FIFTH SESSION OF THE NORTH ATLANTIC COUNCIL (NEW YORK): Communiqué, September 26, 1950 [2]

The North Atlantic Council reconvened today to resume discussions. The Council has been in recess since Monday, September 18.[3] During the interval of this recess, the Foreign Ministers have been in consultation with their Governments.

The Council agreed upon the establishment, at the earliest possible date, of an integrated force under centralized command, which shall be adequate to deter aggression and to ensure the defense of Western Europe.

The concept of the integrated force approved by the Council is based upon the following principles:

1. The force will be organized under the North Atlantic Treaty Organization and will be subject to political and strategic guidance exercised by the appropriate agencies of that organization.
2. The force will be under a Supreme Commander who will have sufficient delegated authority to ensure that national units allocated to his command are organized and trained into an effective integrated force in time of peace as well as in the event of war.
3. The Supreme Commander will be supported by an international staff representing all nations contributing to the force.
4. Pending the appointment of a Supreme Commander, there is to be appointed a Chief of Staff who will have responsibility for training and organization.
5. The Standing Group of the Military Committee of the North Atlantic Treaty Organization [4] will be responsible for higher strategic direction of the integrated force.

The finalization by the Council of the arrangements for the integrated force must await the recommendations of the Defense Committee on the following points:

The Council has requested the Defense Committee of the North Atlantic Treaty Organization [5] to work out the organization of the integrated force and to recommend the steps necessary to bring this force into being at the earliest possible time. The Council has also requested the Defense Committee to consider changes and simplifications required in the military structure of the North Atlantic Treaty Organization and related military organizations and to consider how best to ensure the necessary close working relationship between the Standing Group and the member governments not represented on it.

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[1] See the Council's communiqué of Sept. 26, 1950, *infra*.

[2] Department of State *Bulletin*, Oct. 9, 1950, p. 588.

[3] See the Council's communiqué of Sept. 18, 1950, *supra*.

[4] For the terms of reference of the Standing Group, see Section V of the Final Communiqué of the First Session of the North Atlantic Council, *supra*, doc. 35.

[5] For the terms of reference of the Defense Committee, see Section IV, *ibid*.

The Council agreed that, in order to bring the integrated force into effective being, all available manpower and productive resources should be fully utilized for the defense of Western Europe. To this end, the North Atlantic Treaty Organization will consider the precise character and composition of the forces to be allocated to the integrated force by member Governments. Decisions regarding the allocation of such forces will be sought from member governments at an early date.

The utilization of German manpower and resources was discussed in the light of views recently expressed by democratic leaders in Germany and elsewhere. The Council was in agreement that Germany should be enabled to contribute to the build-up of the defense of Western Europe and, noting that the occupying powers were studying the matter, requested the Defense Committee to make recommendations at the earliest possible date as to the methods by which Germany could most usefully make its contribution.

In accordance with the policy of annual rotation of the chairmanship, the Foreign Minister of Belgium, Paul Van Zeeland, has assumed the chairmanship of the Council for the coming year.

In adjourning their meeting, the Ministers reaffirmed the unity of the free peoples which they represent in their common determination to preserve the peace, the security, and the freedom of the Atlantic community.

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41. SIXTH SESSION OF THE NORTH ATLANTIC COUNCIL (BRUSSELS): Communiqué, December 19, 1950 [1]

The North Atlantic Council acting on recommendations of the Defense Committee today completed the arrangements initiated in September last for the establishment in Europe of an integrated force under centralized control and command. This force is to be composed of contingents contributed by the participating governments.

The Council yesterday unanimously decided to ask the President of the United States to make available General of the Army Dwight D. Eisenhower to serve as Supreme Commander. Following receipt this morning of a message from the President of the United States that he had made General Eisenhower available, the Council appointed him.[2] He will assume his command and establish his headquarters in Europe early in the New Year. He will have the authority to train the national units assigned to his command and to organize them into an effective integrated defense force. He will be supported by an international staff drawn from the nations contributing to the force.

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[1] Department of State *Bulletin*, Jan. 1, 1951, p. 7.

[2] See *supra*, p. 1505.

The Council, desiring to simplify the structure of the North Atlantic Treaty Organization in order to make it more effective, asked the Council Deputies to initiate appropriate action.[1] In this connection the Defense Committee, meeting separately on December 18th, had already taken action to establish a defense production board with greater powers than those of the Military Production and Supply Board which it supersedes. The new board is charged with expanding and accelerating production and with furthering the mutual use of the industrial capacities of the member nations.

The Council also reached unanimous agreement regarding the part which Germany might assume in the common defense. The German participation would strengthen the defense of Europe without altering in any way the purely defensive character of the North Atlantic Treaty Organization. The Council invited the Governments of France, the United Kingdom and the United States to explore the matter with the Government of the German Federal Republic.

The decisions taken and the measures contemplated have the sole purpose of maintaining and consolidating peace. The North Atlantic nations are determined to pursue this policy until peace is secure.

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42. ADMINISTRATIVE REORGANIZATION OF NATO: Communiqué by the North Atlantic Council Deputies (London), May 5, 1951[2]

I.

The North Atlantic Council Deputies announce today the adoption by their Governments of new terms of reference for the North Atlantic Council, which will hereafter incorporate the Defense Committee and Defense Finance and Economic Committee and thus become sole ministerial body in organization.

The Council Deputies announce at the same time the creation of a Financial and Economic Board [FEB], located in Paris.

The North Atlantic Council, as originally established, was composed of the Foreign Ministers of the nations party to the North Atlantic Treaty. Two other ministerial committees were organized, a Defense Committee composed of Defense Ministers and a Defense Finance and Economic Committee composed of Finance Ministers.[3] The only full-time agencies functioning during the early months of NATO (North Atlantic Treaty Organization) were the standing group (made up of representatives of the Chiefs of Staff of France, the United Kingdom and the United States) and the permanent working staffs of the Defense Finance and Economic Committee and of the

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[1] See the Council Deputies' communiqué of May 5, 1951, *infra*.

[2] Department of State *Bulletin*, May 21, 1951, pp. 810–812.

[3] See the Final Communiqué of the First Session of the North Atlantic Council, Sept. 17, 1949; *supra*, doc. 35.

Military Production and Supply Board, a subordinate organization of Defense Committee.[1]

Experience soon demonstrated the need for a central, continuously functioning body to insure coordination between the work of the various treaty agencies and to facilitate the implementation of agreed plans. The Council in May 1950 therefore established the Council Deputies,[2] who first met in July of that year.

II. THE CANADIAN PROPOSAL

Experience also demonstrated the need, particularly as emphasis shifted from planning to the implementation of plans, for a simpler organization with clear lines of authority, for fewer committees and more full-time operating agencies. In the autumn of 1950 the Canadian Government proposed reorganization of NATO to meet this need, and in December the Council authorized the deputies to study and recommend the necessary changes.[3] The result is the structure announced today.

III. THE REORGANIZED COUNCIL

As before, the Council is the principal body in the North Atlantic Treaty Organization and is "charged with the responsibility of considering all matters concerning the implementation of the provisions of the treaty." The reorganized Council, however, incorporates not only the Council envisaged by article 9 of the treaty[4] but also the Defense Committee referred to in the same article and the Defense Finance and Economic Committee. Both latter cease to exist as separate entities. The Council will continue to be composed of persons of ministerial rank, although in exceptional circumstances member governments may be represented by other persons duly designated for the purpose. Heads of Governments may attend meetings of the Council in person. Otherwise, Governments will be represented by their Minister for Foreign Affairs and/or the Minister of Defense, or by other competent ministers, especially by those responsible for financial and economic affairs, according to the nature of the agenda.

As hitherto, the Council will meet annually in ordinary session and such other times as may be deemed desirable by the majority of the parties.

IV. LOCATION OF SESSIONS

Location of each session will be determined by the chairman after consultation with the other parties. For general convenience, the ordinary annual session will normally be held at about the same time and in the same geographic area as the annual session of the General

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[1] *Ibid.* and the Final Communiqué of the Second Session of the North Atlantic Council, Nov. 18, 1949; *supra*, doc. 36.

[2] See the Final Communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950; *supra*, doc. 38.

[3] See the Final Communiqué of the Sixth Session of the North Atlantic Council, Dec. 19, 1950; *supra*.

[4] Treaty of Apr. 4, 1949; *supra*, pp. 812–815.

Assembly of the United Nations. Other ordinary sessions will normally be held at some convenient location in Europe.

V. CHAIRMANSHIP

The chairmanship of the Council will continue to rotate in alphabetical order. Paul van Zeeland, Foreign Minister of Belgium, is the present chairman. In order that the Council may effectively carry out its responsibilities and exercise them continuously, each Government is represented by a council deputy. Each deputy represents all ministers concerned with NATO matters in his Government and is responsible to such minister or ministers as his Government may determine. The Council Deputies, located in London, constitute the permanent working organization of the North Atlantic Council.

VI. THE COUNCIL DEPUTIES

When the Council is not in session, the Deputies carry out its policies, recommend to Governments the measures necessary to this end, formulate issues requiring decisions by the Council or by member governments and otherwise constitute a body which may register the approval of their Governments on matters before them for consideration.

The deputies will also be responsible for coordinating the activities of and giving guidance to all other permanent organs of the North Atlantic Treaty Organization, exchange views on political matters of common interest within the scope of the treaty, promote and coordinate public information activities in furtherance of its objectives.

The chairman of the Council Deputies in addition to presiding at their meetings, is responsible for directing the permanent working staff of the organization.

VII. MILITARY STRUCTURE

With the exception of the incorporation of the former defense committee into the Council, the military structure remains unchanged. The Council Deputies will deal directly with the military committee and, when that body is not in session, with the standing group on political matters having military implications. It will provide those bodies with political guidance upon which strategic decisions should be based. The standing group will maintain close liaison with the Council Deputies and provide that body with advice on military matters.

VIII. DEFENSE PRODUCTION BOARD

The Defense Production Board, which was established last December and has its headquarters in London, replaced the military Production and Supply Board and the subsidiary agencies of that committee.[1] It has as its general objectives the achievement of the maximum production of military equipment in the most efficient manner, at the least cost, and in the shortest time to meet the military material requirements of NATO. These objectives will be sought by coordinating national production programmes so that they will together fulfill NATO-wide production objectives. The Board is directed to concentrate its activities on those aspects of military production and procurement which involve major problems of international cooperation among the NAT members. A unified international staff has been organized to serve the Board under a coordinator of North Atlantic Defense Production, who is ex officio a member of the DPD.

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[1] See the Final Communiqué of the Sixth Session of the North Atlantic Council, Dec. 19, 1950; *supra*.

IX. CREATION OF THE FEB

The creation of the Financial and Economic Board (FEB) is another step toward simplifying and making more effective the executive organization of NATO. In this respect it follows the precedent established in the setting up of the Defense Production Board.

According to its terms of reference, the new FEB:

> shall be responsible for considering and making recommendation upon financial and economic problems arising in connection with NATO defense programs and upon the best use of financial and economic resources in member countries in support of the common defense effort. It shall advise the other NATO bodies under the Council Deputies on all relevant economic and financial questions arising out of their work.

The FEB will ordinarily address its recommendations to the Council Deputies, but in specified cases these may be sent direct to member governments.

The FEB will succeed to the functions and responsibilities previously belonging to the permanent working staff of the Defense Financial and Economic Committee, the advisory group on raw material problems, and the economic and financial working group, which was set up some months ago in Paris. Among its other tasks, it has been assigned the duty of reporting to the Council Deputies on the financial and economic aspects of progress of defense programs in member countries. It will also:

> maintain close contact with the work of other international organizations dealing with financial and economic problems and in particular with the Organization for European Economic Cooperation (OEEC),[1] having in view the need to avoid duplication of effort.

The FEB will be based in Paris so that it will be able to draw on the experience and skills of the OEEC. It is expected that governments will be represented on FEB by senior members of their delegations to OEEC so that close coordination of activities of these two bodies will be assured.

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[1] See *supra*, pp. 992–1000.

43. STATEMENT BY THE NORTH ATLANTIC COUNCIL (OTTAWA), SEPTEMBER 21, 1951[1]

The peoples of the North Atlantic community are united under the North Atlantic Treaty to preserve their freedom and to develop their common heritage of democracy, liberty and the rule of law. During the past two years, since the Treaty came into being, North Atlantic countries have joined in collective efforts for their defense. They will continue to work together closely to consolidate the North Atlantic community. All obstacles which hinder such cooperation on an equal footing should be removed.

The persistent attempts which have been made and are being made to divide the peoples of the North Atlantic community will fail. Those who made these attempts do not understand the nature or the strength of the close ties between the free peoples of the North Atlantic community. The preservation of peace is the very essence of that community, and free discussion as to how this can best be done is a source of continuing strength.

It was the threatening international situation that brought 12 nations of the North Atlantic community formally together under the North Atlantic Treaty to create sufficient strength to preserve their freedom and liberty. A series of so-called peace offers as vague in language as they are obscure in content are made from time to time. The peoples of the North Atlantic community will test these offers by the deeds that follow them. They will never reject any genuine move for peace, but will not be deflected from building up their defensive strength by mere empty words about peace.

The strenthening of the North Atlantic Treaty Organization in the past two years has developed in the minds of the peoples a strong sense of their common interests and ideals. There is a desire within the North Atlantic Community to meet specific needs in all fields where close collaboration will advance the welfare of the community.

One source for the further development of the North Atlantic community is Article II of the North Atlantic Treaty which states:

> The Parties will contribute towards the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them.

A clear sense of the direction in which the community is developing should make it easier to take practical steps towards that end.

The Council has therefore decided to set up a Ministerial Committee composed of representatives from Belgium, Canada, Italy, Netherlands and Norway, to consider the further strengthening of the North Atlantic Community and especially the implementation of Article II of the North Atlantic Treaty.

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[1] Department of State *Bulletin*, Oct. 1, 1951, pp. 524–525.

The Committee, assisted by the Council Deputies, will, in particular, consider and make recommendations to the Council on the following matters:

(a) Coordination and frequent consultation on foreign policy, having particular regard to steps designed to promote peace.
(b) Closer economic, financial and social cooperation designed to promote conditions of stability and well-being, both during the period of rearmament and thereafter, within the North Atlantic Treaty Organization or through other agencies.
(c) Collaboration in the fields of culture and public information.

In these and other ways the Council will build up the inner strength of the North Atlantic community, without duplicating the work of other international organizations which promote the same objectives.

The Council endorses the recent declaration of the Organization for European Economic Cooperation which called on all sections of the European community to increase production and play their part in the collective effort for peace and well-being.[1]

In developing the North Atlantic community, the Council would act in conformity with and seek to strengthen the purposes and principles of the Charter of the United Nations. It is only by the work and by the enlightened understanding of the free peoples everywhere that the cause of freedom and democracy will be upheld against any challenge.

44. SEVENTH SESSION OF THE NORTH ATLANTIC COUNCIL (OTTAWA): Communiqué, September 21, 1951[2]

1. The North Atlantic Council has concluded its Seventh Session, in which for the first time the member governments were represented by Foreign Ministers, Defense Ministers and Economic or Finance Ministers. The new composition of the Council reflects the wide fields in which coordination is being steadily developed.

2. In an exchange of views on the world situation, note was taken of the growing confidence and strength of the Atlantic community in a world of continuing tension. The Council was informed by the Occupying Powers of the progress of discussions directed toward the establishment of a new relationship with the German Federal Republic. It was also informed of the statement made by the three foreign ministers after their meeting in Washington[3] in which they welcomed the plan for a European Defense Community of which Germany would form part.

3. The Council, considering that the security of the North Atlantic area would be enhanced by the accession of Greece and Turkey to the

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[1] Declaration of Aug. 29, 1951; Department of State *Bulletin*, Sept. 24, 1951, pp. 487–488.

[2] *Ibid.*, Oct. 1, 1951, pp. 523–524.

[3] Communiqué released by the Foreign Ministers of the United States, the United Kingdom, and France on Sept. 14, 1951; *infra*, pp. 1720–1723.

North Atlantic Treaty, agreed to recommend to the member governments that, subject to the approval of national Parliaments under their respective legislative procedures, an invitation should be addressed as soon as possible to the Kingdom of Greece and the Republic of Turkey to accede to the Treaty.[1]

4. The Council considered the reports submitted by the military and civilian agencies of the Treaty Organization:

(a) The Standing Group reported on the establishment and development of the integrated force under General Eisenhower, and progress on other military matters.[2]

(b) The Defense Production Board reported on the problems relating to the further development of production and recommended means of dealing with these problems.[3]

(c) The Financial and Economic Board presented a report analyzing the economic and financial impact of the NATO defense effort with special reference to the equitable sharing of the burden.[4]

(d) The Council Deputies, the permanent working body of the Treaty Organization, reported on their activities in political, organization, and administrative matters and in developing closer coordination between the Treaty agencies.[5]

(e) The Chairman of the Council Deputies summarized the major issues before the Organization and suggested action to meet them.

As a result of the study of these reports, the Council issued guidance and directives to the respective agencies concerning their future work.

5. All member governments recognize as their joint aim the building up [of] defense forces to a sufficient level of strength, and the no less important objective of a sound and stable economy necessary to support that effort. The reports of the Defense Production Board and of the Financial and Economic Board, and the discussion thereon, have indicated a number of difficulties in the production and economic fields. The member countries recognize the need to surmount such difficulties in order to assure the continued progress of their efforts to strengthen the free world. The Council has noted the danger of inflation, the burdens which increased defense efforts place on the balance of payments, and the obstacles to an adequate defense arising from price and allocation pressures on raw material supplies. The Ministers recognized that the common effort requires a common attack upon these problems, and agreed to take such action severally and jointly as they deem appropriate to find solutions to them.

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[1] The protocol for the accession of Greece and Turkey to the North Atlantic Treaty was signed Oct. 17, 1951; *supra*, pp. 853–854.

[2] For the terms of reference of the Standing Group, see Section V of the Final Communiqué of the First Session of the North Atlantic Council, Sept. 17, 1949; *supra*, doc. 35.

[3] The terms of reference of the Defense Production Board were included in Section VIII of the communiqué by the North Atlantic Council Deputies, May 5, 1951; *supra*, doc. 42.

[4] *Ibid.*, Section I.

[5] For the terms of reference of the Council Deputies, see the Final Communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950; *supra*, doc. 38.

6. Accordingly a temporary committee of the Council was established to survey urgently the requirements of external security, and particularly of fulfilling a militarily acceptable NATO plan for the defense of Western Europe, and the realistic political-economic capabilities of the member countries, with a view to determining possible courses of action for their reconciliation so as to achieve the most effective use of the resources of the member countries.

7. The Council received reports from the member governments on the status of the defense effort in their countries and referred them to the military agencies and appropriate commands for study and recommendations to improve the early effectiveness and availability of forces.

8. The Council noted that agreement had been reached on the financing of an "infrastructure" program of airfields, communications, and certain installations for the support of forces. These projects will continue without delay.

9. The Council has issued a separate statement [1] making clear the importance which the member governments attach to the development of the Atlantic community, not only to safeguard their freedom and common heritage on an equal footing but also to strengthen their free institutions and to advance the well-being of their peoples. The statement announced the establishment of a ministerial committee to study and recommend lines of future action toward these objectives.

10. The Council resolved that, in order to develop more effective unity of action, and in accordance with its duties as the institution for forming the policy and directing the operations of the Treaty Organization, its meetings would be held more frequently and at more regular intervals. In order to continue progress on the problems discussed at the Seventh Session, it was agreed that a further meeting of the Council would be held in Rome in the near future.

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45. EIGHTH SESSION OF THE NORTH ATLANTIC COUNCIL (ROME): Communiqué, November 28, 1951 [2]

1. The North Atlantic Council has today concluded its eighth session in Rome. It was a regular meeting of the Council held in accordance with the policy announced at Ottawa of holding frequent meetings to exchange views and to develop more effective unity of action on a continuing basis.[3] It was attended by twenty-eight Ministers of Foreign Affairs, Finance, and Defense.

Pending parliamentary approval of the decision to invite Greece and Turkey to adhere to the North Atlantic Treaty,[4] representatives of those two countries attended the plenary meetings of the Council as observers.

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[1] *Supra.*

[2] Department of State *Bulletin,* Dec. 10, 1951, p. 952.

[3] See paragraph 10 of the communiqué of the Seventh Session of the Council, *supra.*

[4] This decision was taken at the Seventh Session of the North Atlantic Council; see paragraph 3 of the communiqué of Sept. 21, 1951, *supra.*

2. The Council considered progress reports from its military and civilian agencies. It instructed the pertinent agencies to put into action certain recommendations of the reports and to continue their work on others with a view to reporting further at the next session of the Council.

3. The chairman and one vice-chairman of the Temporary Council Committee[1] informed the Council of the progress of the Committee's work directed toward the reconciliation of military requirements with political-economic capabilities. They stated that the Committee's final report and recommendations would be presented early in December for the consideration of member governments and the Council at its next session.

4. The Military Committee, consisting of the Chiefs of Staff of member countries, met in Rome before the Council meeting. The Council considered the reports of the Military Committee, including one on the readiness and effectiveness of NATO forces. The Supreme Allied Commander, Europe, and his Chief of Staff made oral statements. The Council exchanged views and took decisions on various military matters dealt with in these reports.

5. The North Atlantic Council received statements with respect to the status of negotiations for the establishment of a European defense community, and the status of negotiations with the German Federal Republic concerning the contractual arrangements to replace the occupation statute.[2]

The Council adopted a resolution expressing its hope that the Paris conference would conclude its activities at the earliest possible moment so that a definitive report could be made to the Council for consideration at its next meeting.

The resolution requested the appropriate North Atlantic Treaty agencies in the meantime to give early attention to the problem of correlating the obligations and relationship of the European defense community with those of the North Atlantic Treaty so that discussions with the Paris conference on this question may be held and concluded as soon as possible.

6. The Council approved an interim report submitted by the Committee on the North Atlantic community (consisting of representatives of Belgium, Canada, Italy, the Netherlands, and Norway).[3]

The report stressed the importance of further developing the habit of consultation on matters of common concern. The Council directed that fuller study be given to a number of proposals relating to economic, social, and cultural matters and to the coordination of the activities of NATO civilian agencies with those of other international organizations. In this connection the Council recommended that particular consideration be given to facilitating the movement of labor from member countries with excess manpower to others where it could be effectively utilized.

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[1] Established as announced in paragraph 6, *ibid.*

[2] See *infra*, pp. 1720–1726.

[3] This committee was established in accordance with the statement released by the North Atlantic Council, Sept. 21, 1951; *supra*, doc. 43.

7. The Council directed the Committee to continue its work. The Council agreed that its next meeting should be held in Lisbon on February 2, 1952.

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46. ADOPTION OF THE REPORT OF THE TEMPORARY COUNCIL COMMITTEE BY THE NORTH ATLANTIC COUNCIL: NAC Press Release, February 24, 1952 [1]

1. The North Atlantic Council yesterday adopted the plan of action of its Temporary Council Committee. The approval of the Council resolution on the Temporary Council Committee report brought to a successful conclusion the work of the Temporary Council Committee, established by the Council at its meeting at Ottawa on September 19, 1951.[2]

2. By its resolution on the TCC report, the North Atlantic Council agreed on specific policies and plans for building NATO defensive strength during the present year. NATO nations agreed to provide approximately 50 divisions in appropriate conditions of combat readiness and 4,000 operational aircraft in Western Europe as well as strong naval forces. It further provided a definite program for taking measures this year necessary to increase the defensive power of NATO in following years. This defensive force does not include the contributions of Greece and Turkey.

There was general agreement that this increase in defensive power will constitute an important increased deterrent against aggression. While not covered specifically by the Council action at Lisbon,[3] it was recognized that Allied strategic air power is already a powerful deterrent to aggression and in the event of attack would be a most valuable addition to the defense of Western Europe.

3. The primary task of the TCC was to develop a plan of action reconciling the issues arising from the requirements of a militarily acceptable defense plan and the politico-economic capabilities of the member countries. Through the work of a screening and costing staff under the direction of General McNarney,[4] it considered ways and means of building balanced effective defensive forces at minimum cost. At the same time it made a careful appraisal of the politico-economic capabilities of each NATO country and of the economic problems which will have to be dealt with in order to develop those capabilities.

4. The Council resolution, derived from the TCC report, lays the emphasis on defense which is prompt, effective and practicable. This requires (a) action for the earliest build-up of balanced collective

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[1] Department of State *Bulletin*, Mar. 10, 1952, pp. 368–370.

[2] See the Council's communiqué of Sept. 21, 1951; *supra*, doc. 44.

[3] See the communiqué of the Lisbon meeting of the Council, Feb. 26, 1952; *infra*.

[4] Gen. Joseph T. McNarney, USAF, Chairman of the Defense Management Committee, Headquarters, USAF, Office of the Secretary of Defense, Washington; detailed to NATO.

forces, (b) policies designed to maintain and strengthen the economic and social structure of each country and (c) appropriate organizational arrangements.

(1) The threat which the member countries of NATO now face clearly requires that they promptly build up their effective forces. The various elements of this build-up should be kept in balance so as to make possible at all times the maximum combat-ready forces as an effective deterrent against aggression.

(A) The Council resolution stated measures essential to the achievement of the planned build-up of NATO defensive strength in this and following years. These measures emphasized:

(1) Economy in the use of resources for defense,
(2) The elimination of less essential defense activities,
(3) Adoption of detailed measures developed by TCC for improving the combat efficiency of national forces,
(4) A further development of NATO-wide equipment supply planning,
(5) Initiation of a system of NATO priority recommendations to assist in the allocation of equipment by nations,
(6) An increased efficiency through improved organizational arrangements.

On these and other points, specific recommendations have been agreed to by NATO governments, and instructions for action given with provisions for NATO follow-up.

(B) The directives defining the duties and responsibilities of General Eisenhower and of the military committee's standing group have been revised to reflect added responsibilities.

(C) The TCC plan of action included the assumption that Germany will in subsequent years contribute forces through the European Defense Community to the defense of Europe.

(2) Adequate defensive strength can be created and maintained only if the economic and social foundation in each country remains sound and healthy. The Council made a number of recommendations for strengthening the economies of the participating countries, involving national and cooperative action. The Council recommended that all NATO governments should take all practicable measures

(A) To encourage general economic expansion;
(B) To increase production of scarce raw materials and to control their use as necessary to conserve supplies and insure defense requirements are met;
(C) To prevent inflation by adoption of necessary sound fiscal, financial, and monetary policies;
(D) To facilitate labor mobility among NATO countries and to alleviate manpower shortages in defense industries;
(E) To adopt measures to improve the equitable distribution of the internal burden of defense in the NATO countries;
(F) To maintain essential imports through a satisfactory solution

of balance of payments problems, in particular by increasing the dollar earnings of European countries.

(3) NATO activities are shifting in emphasis from the planning to the operational stage. The machinery and methods of operation of NATO must be adjusted to this new situation. In particular, the TCC recommended methods to develop and keep up to date a NATO-wide defense program which is balanced, feasible and economical. On this basis, there is a need for continual planning and follow-up by NATO agencies, based on annual reviews of the TCC type, by the permanent NATO, to provide a firm program for the immediately ensuing year and provisional guidance for longer-term actions.

The Council recognized the existence of a number of military, economic and political problems which the member countries face in implementing fully its recommended program for 1952. The Council agreed that urgent and sustained action on these problems is of vital importance to the achievement of Nato security objectives, and urged that the governments and the NATO agencies undertake without delay the specific actions required.

The Council resolution recognizes that the risk of aggression will continue. It also recognizes that there is a great urgency for increased defensive power in the North Atlantic Treaty area on a truly operational basis, and that governments individually and collectively should devote their best efforts to this end.

5. The Council invited the Governments of Greece and Turkey to consider with appropriate NATO bodies the applicability of the findings and recommendations of the TCC to Greece and Turkey. It opened the way for the participation of Greece and Turkey on a full and equal basis in the annual review to be undertaken beginning next summer.

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47. NINTH SESSION OF THE NORTH ATLANTIC COUNCIL (LISBON): Communiqué, February 26, 1952 [1]

The ninth session of the North Atlantic Council was held in Lisbon from February 20 to February 25, 1952, under the chairmanship of the Honorable Lester B. Pearson, Canadian Secretary of State for External Affairs.

On February 18, the kingdom of Greece and the republic of Turkey acceded to the treaty,[2] and representatives of their respective Governments attended throughout the session. In all, thirty-five Ministers of fourteen countries took part in the discussions of the council.

(2)

The Council made further progress in dealing with current and long-range problems of the Atlantic community. The decisions taken and the agreements reached by the Council are the practical result of projects initiated at earlier sessions and reflect the continuing work of the treaty agencies. They represent the united efforts of member Governments to safeguard the peace, stability and well-being of the North Atlantic community through the strengthening of their collective defense.

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[1] Department of State *Bulletin*, Mar. 10, 1952, pp. 367–368.

[2] See *supra*, pp. 853–854.

(3)

The Council took note of a report of the Paris conference on the European Defense Community and a report by the occupying powers on the proposed contractual arrangements with the German Federal Republic.[1] The Council found that the principles underlying the treaty to establish the European Defense Community conformed to the interests of the parties to the North Atlantic Treaty. It also agreed on the principles which should govern the relationship between the proposed community and the North Atlantic Treaty Organization.[2] The North Atlantic Council agreed to propose to its members and to the European Defense Community reciprocal security undertakings between the members of the two organizations.[3] Such undertakings would require ratification in accordance with the constitutional processes of the states involved. All these decisions are inspired by the conviction that the North Atlantic Treaty Organization and the European Defense Community have a common objective, to strengthen the defense of the Atlantic area, and that the development of the European Defense Community should be carried forward in this spirit. Therefore, the Council considered that the obligations and relationships between the communities should be based on the concept of two closely related organizations, one working, so far as this objective is concerned, within the framework of, and reinforcing the other.

(4)

The Council took detailed and comprehensive action based on the recommendations of the Temporary Council Committee.[4] The decisions taken by the Council provided for the earliest building-up of balanced collective forces to meet the requirements of external security within the capabilities of member countries. Agreement was reached on the specific defensive strength to be built this year, and on a definite program of measures to be taken this year to increase defensive strength in following years. A number of important steps were agreed to be taken by the treaty organization and by member governments to accomplish this building-up with a more efficient use of resources. Policies designed to maintain and strengthen the economies and social stability of member countries were agreed and recommended to governments.

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[1] See the communiqué of the Paris conference, Jan. 28, 1952 (*Documents on International Affairs, 1952* (London, 1955), pp. 74–76) and the communiqué of Feb. 19, 1952, issued by the three Western Foreign Ministers and the German Federal Chancellor (*infra*, pp. 1726–1727).

[2] See the Protocol of May 27, 1952, concerning Relations between the European Defense Community and the North Atlantic Treaty Organization, *supra*, p. 1171.

[3] See the Additional Protocol . . . concerning Guarantees of Assistance . . . to the States Parties to the North Atlantic Treaty, May 27, 1952; *supra*, pp. 1173–1174.

[4] See the summary of the Committee's report; *supra*.

(5)

Agreement was reached on the financing of a further portion of the infrastructure program, for airfields, communications and headquarters.

(6)

The terms of reference of the Standing Group and of the Supreme Commander, Allied Powers in Europe, were revised to reflect added responsibilities, notably for equipment priorities and planning for the logistical support of the military forces.

The Council agreed that the ground and air forces of Greece and Turkey assigned to NATO will operate under the over-all command of SACEUR (Supreme Allied Commander Europe) through Commander in Chief, Southern Europe. The naval forces of Greece and Turkey will remain for the present under their national Chiefs of Staff, operating in close coordination with all other naval forces in the Mediterranean. The Standing Group [1] was directed to continue its study of command of naval forces in the Mediterranean area and their coordination with land and air forces and to submit a definitive report to the Council at its next meeting.

(7)

The Council also took action to adapt the Treaty Organization to the needs arising from the development of its activities from the planning to the operational stage. The North Atlantic Council, while continuing to hold periodic ministerial meetings, will henceforth function in permanent session through the appointment of permanent representatives. The Council decided to appoint a Secretary General, who will head a unified international secretariat designed to assist the Council in the fulfillment of the increasing responsibilities. All civilian activities of the organization will be concentrated in the geographical area where are situated other international agencies whose work is closely related to that of the Treaty Organization and with which close administrative connection is essential to efficiency. These are presently situated in the vicinity of Paris. When these changes become effective, the Council will assume the functions hitherto performed by the Council Deputies,[2] the Defense Production Board,[3] and the Financial and Economic Board.[4]

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[1] For the terms of reference of the Standing Group, see Section V of the Final Communiqué of the First Session of the North Atlantic Council, Sept. 17, 1949; *supra*, doc. 35.

[2] For the terms of reference of the Council Deputies, see the Final Communiqué of the Fourth Session of the North Atlantic Council, May 19, 1950; *supra*, doc. 38.

[3] The terms of reference of the Defense Production Board were included in Section VIII of the communiqué by the North Atlantic Council Deputies, May 5, 1951; *supra*, doc. 42.

[4] For the terms of reference of the Financial and Economic Board, see Section I, *ibid.*

(8)

The Council adopted a report of the Atlantic Community Committee, established at its Ottawa meeting.[1] This report emphasized the importance of economic cooperation, the expansion and liberalization of trade, and the possibility of working out closer cooperative arrangements with other bodies, particularly the OEEC (Organization for European Economic Cooperation). In approving the analysis of the problem of the movement of labor between member countries in the report of the Atlantic Community Committee, the Council acknowledged the importance of this problem and endorsed the resolution of the Temporary Council Committee on this subject. It was agreed that the permanent North Atlantic Treaty Organization should keep this problem under continuous review, and make recommendations for the elimination, by the most effective utilization of manpower resources, of general or specific manpower shortages which hinder defense production. As cooperation in the field covered by the five-power Atlantic Community Committee is of direct and common concern to each member of the Council, it was decided that the future work in this sphere should be transferred to the Council.

(9)

The Council issued a declaration reaffirming the aims of the North Atlantic Treaty Organization as the promotion of peace through defensive strength and enduring progress.

THE DECLARATION OF AIMS

In the course of their discussions in Lisbon the members of the North Atlantic Council reviewed the aims of their association.

They wish once more to emphasize that this association was forged as a shield against aggression. Its first aim is peace, and the armed strength which is being built up by the united efforts of the member nations will be used only for the defense of their countries and the security of their peoples.

The plan for the build-up of defense forces for the North Atlantic Treaty area laid down by the TCC has been adopted at the present session of the Council in the belief that defensive strength will prove the best deterrent to aggression.

The Council has learned with approval of the main provisions of the plan worked out between five of its members (France, Italy, Belgium, the Netherlands, Luxembourg) and the (West) German Federal Republic for a European Defense Community.

The establishment of this community will help to promote the closer association of the Western European countries and to strengthen the defense of the North Atlantic area.

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[1] See the statement issued by the North Atlantic Council, Sept. 21, 1951; *supra*, doc. 43.

The North Atlantic Treaty Organization, respecting the principles on which the community is founded, will support and cooperate with its institutions.

The arrangements to govern the relationships between the two organizations which have been approved at Lisbon will insure that in pursuit of the common objective, the defense of the North Atlantic Treaty area, the E.D.C. will reinforce and work within the framework of NATO.

The partnership between the nations of the North Atlantic Treaty is not for defense alone but of enduring progress. The members of the Council look forward to the time when the main energies of their association can be less concentrated on defense and more fully devoted to cooperation in other fields, for the well-being of their peoples and for the advancement of human progress.

Then, as now, the North Atlantic Treaty Organization will have to play its part, and to this end it has been agreed in Lisbon to strengthen its structure so that it may become a still more effective association of like-minded nations determined to maintain in peace the unity of purpose and effort achieved in the face of present dangers, and to express itself by continuous collaboration on common problems.

The understanding and sense of fellowship which the members wish to see develop between their countries cannot be achieved by governmental action alone. All citizens can play their part in the work of uniting the peoples in one Atlantic community which will afford, in ever increasing measure, the benefits of peace, freedom and prosperity.

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48. REMARKS BY THE SECRETARY OF STATE BEFORE THE NORTH ATLANTIC COUNCIL (PARIS), DECEMBER 18, 1952 [1]

Mr. Chairman, Fellow Members of the Council: I am deeply touched and very grateful for what the Chairman [2] has said about my service here with you. This is the last meeting which my colleagues and I will attend—for at least 4 years. It has been a great experience for all of us to have worked in the creation and the building of this great institution. It is particularly gratifying to us that our tenure of office lasted long enough so that we could have one meeting under the new Organization which was set up in Lisbon [3] and which has been so brilliantly managed by Lord Ismay and his devoted International Staff, and all of us here in our delegation would feel very remiss if we left your company without expressing to Lord Ismay our deep gratitude for what he has done for all of us and for NATO.

I am told that before the eyes of a drowning man his entire life passes in review and perhaps an expiring Minister may be permitted to review briefly some of his recent life in this Organization. And I do this, not to recall or to bore you with events which you know very well, but to suggest to you that we have all been part of a great movement here, perhaps the full significance of which we do not yet fully grasp.

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[1] Department of State *Bulletin*, Jan. 5, 1953, pp. 5–7.

[2] Ole Bjørn Kraft, the Danish Foreign Minister. For the text of Mr. Kraft's remarks, see *ibid.*, p. 7.

[3] See the Council's communiqué of Feb. 26, 1952; *supra*.

This movement began soon after the end of the war and it is characterized, as I think we can see, if I may review this story briefly, by two things which are of great significance and great importance; I should say three things. One is the tremendous vitality and imagination of European statesmanship and this comes at a time when Europe has been through very difficult years—exhausting years—and yet we find a flowering of statesmanship in Europe which is both surprising under the circumstances and really wonderful for the future of the world. Secondly, the thing that I think is impressive is that this statesmanship is exercising itself in a direction which, although not new in the world, is new in the last 5, 6, or 7 centuries, and that is the movement toward unity, toward a wider and greater unity and a softening of the particularisms of nationalistic feeling. The third thing which I think is significant is that the members of NATO across the sea are getting a new sense of their unity with these forces in Europe and, for the first time since the beginning of my country, there is a readiness, a willingness, and understanding that we must assume obligations with you in the maintenance of peace through the common defense. If we keep these things in mind, perhaps it is worth while to look for a moment at some of the particular developments.

The first which I think begins to show the evolution of this idea was the OEEC,[1] and here again you have a response from America to a European statesmanlike proposal—a proposal put forward by Mr. Bevin [2] and Mr. Bidault [3] to bring the European countries together. At that time it was all of them, including the Iron Curtain countries, for the purpose of working out in common an economic program in which the United States would assist. Now here is the foundation of the idea of common action, unified action, united action to deal with a common problem. And then it develops in another way, and the next phase in this movement was taken by a man who, I think, is very dear to the hearts of all of us here, Mr. Ernest Bevin. I think we all have the highest regard for his character and the deepest affection for the man himself. And I know that, in saying this, I would have the full support of Mr. Eden [4] as well as the rest of us.

It was in January 1948 that Mr. Bevin communicated with Secretary of State Marshall and said that he was thinking about putting forward a plan, with his European associates, to create a Union.[5] He had not quite decided what form it would take, whether it would be a treaty, whether it would be purely military, but it was to bring together in a political, spiritual, military, and a defensive way the

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[1] See *supra*, pp. 992–1000.

[2] Ernest Bevin, British Foreign Secretary.

[3] Georges Bidault, French Foreign Minister.

[4] Anthony Eden, British Foreign Secretary.

[5] See Mr. Bevin's foreign policy address of Jan. 22, 1948, before the House of Commons, pertinent excerpts from which are printed in *Documents on American Foreign Relations*, vol. X (Princeton, 1950), pp. 593–597.

Western European countries. General Marshall responded that the United States would support it vigorously,[1] which they did, and that resulted in the Western Union Treaty,[2] which Mr. Schuman said in a speech at luncheon today was really the genesis of NATO. And then the next step was the development of the North Atlantic Treaty[3] and that in turn is a series of developments.

After the Western Union began to develop, there were discussions with Secretary Marshall and my colleague, Mr. Lovett, who was Under Secretary of State. Then Mr. Lovett worked with Senator Vandenberg and prepared with him and Senator Connally the Vandenberg Resolution[4] which laid the foundation with the U.S. Congress for a receptive attitude toward the sort of ideas which were coming from Europe. And the basis of the North Atlantic Treaty was to get, for the first time, a commitment from the United States that an attack on one of our countries was an attack on all of us; and that therefore we would not, in the event of a future war, have to wait for a disastrous period of time while the American Nation made up its mind as to what its basic interests were. When I succeeded General Marshall and took over from Mr. Lovett, the ground work for the negotiation of this treaty had been well laid and we could carry it to a successful conclusion in 1949.

Almost as soon as we organized under the North Atlantic Treaty and began meeting here in these Councils, we discovered that the idea of a guarantee through political association, important as that was, was not enough. Our colleagues began to speak to us about the fact that it was a great advance that the United States was ready at the outset to throw in its lot with the Western European nations; but, if there was no preparation, then the United States would be liberating a continent which would have been largely destroyed. Therefore, it was necessary to do more than have a political guarantee; it was necessary to prepare, and we had a meeting in London in May 1950.[5] At that meeting we learned something to which I shall return in a moment. It was at that time that Mr. Schuman told Mr. Bevin and me about the proposal which would be brought forth in a very short time and which became known as the Schuman Plan,[6] which was the third great step. But meanwhile we went on in NATO, and at the May meeting we discussed the importance of what was then called "balanced collective forces" as against "balanced national forces"; and we passed resolutions along that line; we passed resolutions creating a permanent Council of Deputies and other very advantageous measures; but we had hardly finished that work when we saw that it was inadequate. All it had done was to continue NATO as a planning operation but not as an executive or functioning operation. There were plenty of plans but there was no execution.

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[1] See the statement released by the Department of State, Jan. 23, 1948; Department of State *Bulletin*, Feb. 1, 1948, p. 138.

[2] Treaty of Mar. 17, 1948; *supra*, pp. 968–971.

[3] Treaty of Apr. 4, 1949; *supra*, pp. 812–815.

[4] S. Res. 239, 80th Cong., 2d sess., June 11, 1948; *A Decade of American Foreign Policy*, p. 197.

[5] See the Council's communiqué of May 19, 1950; *supra*, doc. 38.

[6] See the treaty of Apr. 18, 1951, establishing a European Coal and Steel Community; *supra*, pp. 1039–1078.

During that summer we had a great many suggestions including a long memorandum from the French Foreign Office indicating some of the steps which in their judgment were necessary to build an effective, closely knit organization. Then we had the meeting in September in New York,[1] and there our delegation put forward a suggestion which was that there should be a real unified command with troops, a staff, a commander, and supply arrangements so that there would be in Europe an army which could grow and be effective. At the same time it was pointed out by our military advisers that in order to have any effective defense of Europe it had to be a defense as far east as possible, and that was particularly important to the northern members of this Organization—the Netherlands, Denmark, and Norway. And so we worked in September on a plan for a forward defense, and in working on that plan it became perfectly clear that it was not workable unless Germany took part in its own defense and in the defense of Europe. But the problem was how to do that, and we adjourned that meeting without coming to a conclusion.

Then we met in Brussels, and there we adopted the unified command and the idea that Germany should participate in its own defense and the defense of Europe.[2] In the meantime, M. Pleven had put forward a proposal that would take the main ideas of the Schuman Plan and apply them in the military field,[3] and we went to work on that and also on an alternative plan—but the more we worked at it the more clearly it seemed that what later became known as the European Defense Community was the only proper solution to this matter, and we went to work very hard at that point. And so the treaty was finally signed, not only to create the EDC but also providing, as was so necessary, the way to bring Germany voluntarily and willingly and on a basis of equality into its own defense and the defense of the West.[4]

In the meantime the third great step—the Schuman Plan—was going forward; going through all the difficult stages of negotiation and ratification, and finally it has been put into effect. I think that it is fair to say that at the present moment we have no idea how vast will be the change in the thinking of Europe and of the countries outside of Europe as the Schuman Plan actually operates, because here there is, in truth, a cession of sovereignty—here is a new edict, which will create new types of thinking and the cohesion of new loyalties to it, and it is of the most profound significance to Europe and to the world.

That brings us back again to where we are with the EDC. It is now before a number of parliaments for consideration. There are all sorts of difficulties of one sort or another which arise. We in the United States do not minimize or underestimate those difficulties. We know the great problems which it raises for all of you who are considering it. But what I want to suggest to you is that, in the light of the review which I have made this afternoon and in the light of the further provisions which are in the EDC treaty and which are now actually in operation through the *ad hoc* group, which is working on a broader political foundation for unity in the Western world[1]—what we have in the EDC treaty is not merely a method of bringing German troops to the defense of Europe, but rather an essential step in one of the great developments of history—which is unification, through the Coal and Steel Community, through the military community, and through the political association which is now under discussion.

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[1] See the Council's communiqué of Sept. 26, 1950; *supra,* doc. 40.

[2] See the Council's communiqué of Dec. 19, 1950; *supra,* doc. 41.

[3] See M. Pleven's address of Oct. 24, 1950, in the French National Assembly; *Documents on International Affairs, 1949–1950* (London, 1953), pp. 339–344.

[4] Treaty of May 27, 1952; *supra,* pp. 1107–1150.

Here you have an essential step in the building of this great new force in the world. And from the point of view of a colleague of yours across the sea, I cannot overemphasize to you the importance which we attach to this movement and to this step in the movement. Perhaps, if I may use a figure of speech, it seems to me that as you create this strength and unity—this European entity—you are in effect creating a great centripetal force which will bring into an ever closer association with Europe, our British friends across the Channel and your American and Canadian friends across the Atlantic Ocean. It is as this strength is created at the center, as this vital, new, strong development occurs that you will attract strength. If this process is reversed now, in my judgment you will set up a centrifugal force. If, instead of having unity at the center, you have disunity, you will have disunity and weakness throughout the Atlantic community. And this isn't a matter that people can argue about, nor is it a matter that one can approve or disapprove. It is in my judgment as inevitable as the movements of the stars in their courses. It would be just as silly to argue with the course of a star as it would be to say that there just must be closer and closer association between Great Britain, as the next neighbor, and Canada and the United States on the one hand, and a weak Europe on the other and do nothing about it.

Whereas, if you go forward, as I know you will, and develop this ever-growing strength and unity, then you will present an ever-growing attraction to your British, Canadian, and American friends.

That is the last message which I and my colleagues would like to leave with you. We believe that we have all taken part in something of profound significance. It seems to us that if we are successful here, the twentieth century will be known for what has come out of our work and will not be known for the disasters which preceded it.

At your next meeting you will have other colleagues from the United States. They are all known to us and we know that they will work with you just as closely and just as enthusiastically as we have, and we know that you will give them your confidence and your friendship. They are as loyal and devoted as we are to our country, and not only to that, but to this great association which our country has so freely and so unanimously joined, and I know that we can recommend our successors to you and that you will find them worthy of your confidence. I am deeply touched, Mr. Chairman, by what you have said and I am honored to have had this opportunity to say one last word before we break connections which we have held for so long, and at the end of this meeting, all of us will bid you an affectionate farewell.

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[1] See the draft treaty of Mar. 10, 1953, embodying the Statute of the European Political Community; *supra*, pp. 1201–1230.

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49. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, December 18, 1952[1]

1. The Ministerial Meeting of the North Atlantic Council ended in Paris today. The Chairman was Mr. Ole Bjørn Kraft, Foreign Minister of Denmark. It was attended by thirty-two Ministers of Foreign Affairs, Finance, Economics and Defence.

2. The Council received a Progress Report by the Secretary General, which outlined the structure of the International Secretariat. It described the work accomplished in the last eight months by the Council, meeting regularly through the Permanent Representatives, and the development of close working relations between NATO's civilian and military authorities. It also dealt with the constructive work of the Council's Committee on civil defence, and of those concerned with non-military aspects of the Treaty covered by Article 2, such as over-population and social, cultural and informational matters.

3. After taking note of Lord Ismay's report, the Council adopted a resolution (the text of which is issued with this communiqué)[2] periodically to review the Organisation's work under Article 2 of the Treaty.

4. In parallel with the Secretary General's Report, the Council considered a progress report prepared by the Military Committee. This Report showed a great advance in the training and effectiveness of the various national forces assigned to the Supreme Commanders. Combined land, air and sea manoeuvres had shown a marked improvement in cooperation between units as well as at the staff level. The Report also showed a substantial advance in the standardization of international military procedures, notably in signals.

5. The Council approved proposals from the Military Committee for the establishment of a Mediterranean Command, so completing the European Command structure for the defence of the North Atlantic Area. Admiral Lord Mountbatten has been appointed.

6. The Council considered the Strategic Guidance submitted to them by the Military Committee, which took account of the accession of Greece and Turkey to NATO. In approving it the Council reaffirmed their determination to defend all the territories and peoples of the North Atlantic Treaty area.

7. The Council also had the benefit of statements from the Supreme Allied Commander Europe, and the Supreme Allied Commander Atlantic. General Ridgway paid tribute to the high quality of the forces under his command but emphasized that only by a continuing increase in the forces assigned to him would he be able to carry out his

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[1] Department of State *Bulletin*, Jan. 5, 1953, pp. 3–4.

[2] Resolution of Dec. 17, 1952; *ibid.*, p. 4.

responsibilities. Consequently, there could be no relaxation: on the contrary every effort must be made to increase NATO armed strength as rapidly as possible. Admiral McCormick spoke in similar vein.

8. Against this background the Council then considered the first report on the Annual Review for 1952. They noted with satisfaction that the increase in forces agreed to at Lisbon[1] had been substantially achieved by the end of 1952, and that it was planned to make further individual and collective efforts in 1953 to increase, improve and strengthen the forces now in being. At the same time they recognised that strong defence requires a healthy economy.

9. For the future, the Council directed that more emphasis should be given to increasing the effectiveness of the forces of the alliance and the units necessary for their support rather than to the provision of greater numbers, to the extent that resources were not available for both tasks. The Council noted the progress being made in the coordination of production of defence equipment and directed that further study be given to this and to further standardisation in this field. The Council also welcomed the assistance given to European production by United States off-shore procurement contracts.

10. Agreement was reached on the financing of a further portion of the Infrastructure programme for airfields, communications and jet fuel supplies, to the amount of approximately £80 million.

11. During the past eight months, the Council have regularly exchanged views and information on political problems affecting their common interests. At this meeting the Council paid particular attention to the struggle in Indo-China, to the European Defence Community Treaty, and to the situation in Eastern Germany. They noted in particular that, despite the Soviet Union's repeated declarations favouring a German peace treaty and German unification, no reply had been received to the proposals of the United Kingdom, France and the United States sent three months ago.[2] The Council also received a progress report upon the work of the Interim Commission of the European Defence Community. The Council adopted resolutions (the texts of which are attached) on Indo-China[3] and the European Defence Community.[4]

12. It was agreed that the next Ministerial Meeting of the Council should be held as early as possible in the Spring of 1953, when its first task will be to consider the final report on the Annual Review for 1952.

13. In the course of the present Meeting, the Council considered the present situation of the Atlantic Community and its prospects for the future. In the North Atlantic Treaty Organization, fourteen sovereign states have developed a degree of voluntary co-operation without precedent in history. By combining their resources and their

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[1] See press release on the report of the Temporary Council Committee, Feb. 24, 1952, and the North Atlantic Council's communiqué of Feb. 26, 1952; *supra*, docs. 46 and 47.

[2] See note of Sept. 23, 1952, to the Soviet Government; *infra*, pp. 1819–1821.

[3] Resolution of Dec. 17, 1952; *infra*, pp. 2368–2369.

[4] Resolution of Dec. 17, 1952; Department of State *Bulletin*, Jan. 5, 1953, pp. 4–5.

knowledge, by sharing the material burden of defence, by the constant practice of mutual consultation and mutual assistance, member states have already increased their common strength, understanding and unity.

14. Member governments are more than ever convinced that the course they have chosen is the best way of protecting their free society from direct or indirect Communist attempts to overwhelm it. Such improvement as has taken place in the general international situation can be attributed to the efforts which member governments have made in increasing their collective strength since the foundation of the alliance. If there were any relaxation in these efforts, there would be a corresponding increase in the dangers to which they are exposed. The increasingly successful co-operation of the fourteen member governments is a clear proof that the avowed intentions of the Soviet Government to sow dissension in the free world will not succeed.

15. The Council re-affirmed the purpose of their alliance as being for defence, for peace, and for security, and their resolve to extend the the scope of their joint action, and collectively to preserve their common heritage of freedom. The Council welcomed the sense of unity which is steadily growing among the peoples of the Atlantic Community.

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50. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, April 25, 1953 [1]

1. The North Atlantic Council, meeting in Paris in Ministerial Session with the Ministers for Foreign Affairs, Defence, Economics and Finance present, and under the chairmanship of Lord Ismay, completed their work today.

2. The Council agreed on short and long-term programmes for NATO. They established a firm military programme for 1953 and a provisional programme for 1954. In addition to the forces which Greece and Turkey are contributing, there will be a notable increase in the size of the forces assigned to NATO Supreme Commanders and a considerable improvement in their effectiveness. Training is being greatly improved at all levels. The series of large-scale manoeuvres held during the last year has appreciably raised the standard of co-operation of the forces of the member countries; units are being better equipped and the organization of support forces is developing. The NATO military authorities consider that the attainment of the force goals in 1953, and the combined influence of these various factors, will add materially to the defensive strength of NATO during 1953.

3. Agreement was reached not only on the common financing of the second part (£67,000,000) to the Fourth Slice of the Infrastructure Programme (the first part to the amount of about £80,000,000 having been settled at a Ministerial Meeting in December),[2] but also on a cost-sharing formula which would cover future programmes to be submitted by the Supreme Commanders for the three-year period

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[1] Department of State *Bulletin*, May 11, 1953, pp. 673–674.

[2] See paragraph 10 of the Council's communiqué of Dec. 18, 1952; *supra*.

beginning in 1954, involving expenditure of up to £250,000,000, subject to the approval of Parliaments. These programmes will include a wide range of projects such as airfields, telecommunications, naval bases and port facilities, pipelines and radar installations. The military authorities of NATO now have a financial planning figure to which they can work for over three years. In addition, an improved system is ready to be put into operation to ensure closer financial supervision over the expenditure of common infrastructure funds.

4. The Council gave close attention to various economic and financial factors affecting the rate of expansion of the defence efforts. It was agreed that the development of sound national economies and the increase of military forces should be pursued concurrently; in certain fields the establishment of long-term joint military production programmes appeared to be the least costly and the most efficient solution.

5. It was on these lines that the Member Governments and the International Staff developed a method for preparing correlated production programmes. The object of this is both to ensure that the defence production undertaken by European countries within their own budgets is on the most economic lines and to make defence production in Europe more effective. The participation of the United States, through off-shore procurement, adds to the contribution of the European countries and plays a very important part in these achievements. The additional fighter aircraft production programme, which has recently been announced is a first important result of this. It will facilitate the expansion of the aircraft industries in five European countries while at the same time strengthening the air defence capacity of the Alliance. Other programmes are being considered. NATO is also studying the means of developing production in Europe of spare parts for the maintenance of equipment of American and Canadian origin.

6. The Secretary General's Progress Report to the Council stressed the close collaboration between the civilian and military agencies of NATO, and outlined the current work of the International Staff. It emphasised the importance of developing a better public understanding of the aims and achievements of NATO, a matter to which Governments should give their constant attention. The Report described the progress made in the many and varied technical studies by Committees of the Council in a number of widely different fields, such as civil defence and other aspects of civil organization in time of war.

In the course of discussion on the Report, the Council re-emphasised their interest in the NATO countries' co-operation in the economic, cultural and social fields. They noted with satisfaction the initiative taken by the President of the United States of America, recently announced, with a view to fostering the solution of over-population problems in certain countries.[1]

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[1] See President Eisenhower's letter of Apr. 4, 1953, to Queen Juliana of the Netherlands (Department of State *Bulletin*, May 4, 1953, pp. 639–640) and his letter of Apr. 11, 1953, to Hugh Gibson, Director of the Intergovernmental Committee for European Migration (*ibid.*, p. 641).

7. The Council continued their regular practice of exchanging views on political matters of common concern. In reviewing the international situation they were in full agreement. This agreement included their estimate of the recent Soviet moves and gestures. To the extent that these moves and gestures are proved by events to be genuine efforts to reduce international tension, they will be welcomed by Member Governments, whose policy has always been to seek every opportunity for world peace.

8. Nevertheless, the Council found that there had not yet in fact been any change in the fundamental threat to the security of free peoples. The most striking evidence of this continuing threat is the huge and constantly strengthened military force maintained by those nations whose policies have been responsible for the present tension, and who are still promoting agressive war in several parts of the world. The most recent example is the extension of hostilities in Laos. This serious development has increased the burden of France in the struggle against aggression and has given rise to deep concern on the part of other Member Governments.

9. The Council, therefore, reaffirmed the policy of collective defence which has proved fully justified, and which has been responsible for the growing confidence of the free world in the future. The Council felt that there was every prospect that this policy, continued with firmness and patience, will create a basis for a just settlement of unresolved international problems.

10. The Council considered it essential that Member Governments should continue to develop the free Atlantic Community which should include a European Defence Community to be established as soon as possible in an ever more closely united Europe.[1]

11. The Council reaffirmed their fundamental desire to build for peace. They looked forward to the day when a greater share of the resources of their countries would be devoted to national and international reconstruction and development. Convinced that in unity lies their greatest strength, they are resolved to broaden co-operation in every field, economic, political and social, as well as military, and so to make the Atlantic Community a lasting reality.

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51. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, December 16, 1953 [2]

1. The North Atlantic Council, meeting in Paris in Ministerial Session under the Chairmanship of the French Foreign Minister, M. Georges Bidault, completed its work today.

2. The Council examined the international situation and views were exchanged on matters of common concern, including Soviet policy. The Council concluded that there had been no evidence of any change in ultimate Soviet objectives and that it remained a principal Soviet

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[1] See the Council's resolution of Apr. 24, 1953; *ibid.*, May 11, 1953, pp. 674–675.

[2] *Ibid.*, Jan. 4, 1954, pp. 8–9.

aim to bring about the disintegration of the Atlantic Alliance. While the Soviet Government had yet to show that it genuinely desired to reach agreement on any of the outstanding points of difference throughout the world, the policy of NATO is to seek solutions to problems by peaceful means. The Council therefore welcomed the steps taken by the Governments of France, the United Kingdom and the United States in their recent exchanges of notes with the Soviet Government to bring about an early meeting of the four Foreign Ministers in Berlin.[1] The Council also warmly endorsed the initiative taken by the President of the United States in placing before the United Nations proposals for developing and expediting the peaceful use of atomic energy and bringing together the Powers principally involved in order to seek a solution to the problem of atomic armaments.[2]

3. The Council reaffirmed its conviction that peace and security must be the paramount aim of the North Atlantic Treaty Organization. It recognised that the increasing strength and unity of the North Atlantic Powers, which must be steadily reinforced, had proved to be decisive factors in maintaining peace and preventing aggression. Nevertheless, the threat to the Western world remains and member countries must be ready to face a continuance of this threat over a long period. The Atlantic Community must therefore be prepared to keep in being over a period of years forces and weapons which will be a major factor in deterring aggression and in contributing to the effective security of the NATO area, and which member countries can afford while at the same time maintaining and strengthening their economic and social structures. Improvements must continually be sought in the quality of NATO forces and to ensure that they have equipment which is always up-to-date so that, in the event of attack, they can act as a shield behind which the full strength of the member countries can be rapidly mobilised.

Within the continuously developing framework of the Atlantic Community the institution of the European Defence Community, including a German contribution, remains an essential objective for the reinforcement of the defensive strength of the Alliance.

4. The Council considered the Report on the Annual Review for 1953 which records the progress in the NATO defence effort particularly during the past year. At its meeting in December 1952, the Council laid emphasis on the development of the effectiveness of the forces.[3] In this respect notable progress has been made. Large quantities of new equipment have been provided to the forces. This has enabled, in particular, many new support units to be built up. The goals established for the current year have been completely

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[1] See the American notes to the Soviet Union of July 15, 1953, Aug. 17, 1953, Sept. 2, 1953, Oct. 18, 1953, Nov. 16, 1953, Nov. 25, 1953, and Dec. 8, 1953; *infra*, pp. 1839–1842, 1844–1848, and 1849–1850. See also the Soviet notes to the United States of July 30, 953 (Department of State *Bulletin*, Aug. 31, 1953, pp. 282–283); Aug. 4, 1953 (*ibid.*, Sept. 14, 1953, pp. 352–353), Aug. 15, 1953 (*ibid.*, pp. 354–356); Sept. 28, 1953 (*ibid.*, Oct. 26, 1953, pp. 548–550); Nov. 3, 1953 (*ibid.*, Nov 30, 1953, pp. 745– 748); and Nov. 26, 1953 (*ibid.*, Dec. 21, 1953, pp. 853–854).

[2] See President Eisenhower's address of Dec. 8, 1953; *infra*, pp. 2798–2805.

[3] See the Council's communiqué of Dec. 18, 1952; *supra*, doc. 49-

met for the land forces and to a substantial extent for the naval and air forces.

5. On the basis of recommendations made in the Report the Council adopted firm force goals for 1954, provisional goals for 1955, and planning goals for 1956. The force goals agreed upon for 1954 envisaged some increase in the numerical strength of existing NATO forces and a very substantial improvement in their quality and effectiveness.

6. It was agreed that special attention should be given to the continuing provision of modern weapons of the latest types to support the NATO defence system.

The Council noted with satisfaction the intention of the President of the United States of America to ask Congress for authority to provide information on nuclear weapons to NATO commanders for purposes of NATO military planning.[1]

7. The Council recognized that a long-term defence system as now envisaged raises important military and financial problems. With respect to the military problems, the Council invited the Military Committee to continue its re-assessment of the most effective pattern of military forces, for this long term, both active and reserve, due regard being paid to the results of studies of the effect of new weapons. The Council will be kept informed of the progress of this work and a report will be submitted to it in due course. The Council will also keep under review the very considerable financial effort still required to continue the present build-up, to maintain NATO forces at an adequate level of readiness and to replace obsolescent weapons.

8. The Council heard statements by Admiral Sir John Edelsten, Commander-in-Chief Channel, Admiral L. D. McCormick, Supreme Allied Commander Atlantic, and General Alfred M. Gruenther, Supreme Allied Commander Europe, on the work achieved in their Commands, and took note of a progress report by the Military Committee.

9. In the course of its review the Council considered the Secretary General's Report and welcomed the progress recorded since the last Ministerial Meeting in April.[2] It emphasized the importance of the

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[1] Secretary of Defense Charles E. Wilson, addressing the Ministers on Dec. 15, had announced the President's intention. At his press conference in Washington on Dec. 16, the President replied as follows to a question on the subject:

"There are certain changes in the law that are necessary before America can realize the full value with its allies out of the development that has been going on since the World War in this field, this weapons field.

"Now, there are no changes contemplated by me or by the Chairman of the Atomic Energy Commission that have anything to do with the scientific processes of nuclear fission or building of weapons or building of anything else. But where we are attempting to assure the integrity of a line, where we feel that our interest requires to hold it, it is simply foolish for us to think that we cannot or must not share some kind of our information with our allies who would be dependent upon the same kind of support of this kind as we will.

"In other words, it is a very limited field, but certain revisions of the law are necessary before we can do anything, because you must remember that the law [PL 585, 79th Cong., 2d sess., Aug. 2, 1946; 60 Stat. 755–775] was passed under conditions that are not even remotely resembling what they are now." [Footnote in *Bulletin*, Jan. 4, 1954, p. 8.]

[2] See the Council's communiqué of Apr. 25, 1953; *supra*, doc. 50.

work being done to co-ordinate national planning in such matters as civil defence, the wartime control and distribution of commodities and of shipping and other means of transport. Agreement was expressed with Lord Ismay's view that the preparations by member governments in these fields should parallel the progress already achieved in the military field. The Council took note that the problems of manpower had been kept under review and that several recommendations to governments had been approved. Progress which had been achieved this year in preparing correlated production programmes was welcomed. These programmes cover production, for several years ahead, of important ranges of military equipment. The Council expressed satisfaction with the Secretary General's Report on the implementation of the common infrastructure programmes. Besides a large number of projects now under construction, no less than 120 airfields and a large network of signals communications facilities are in use by NATO forces.

10. Ministers took the opportunity to meet together in restricted session and discussed informally matters of interest to all the member governments. They intend at future meetings to continue this procedure, which developed naturally from the sense of unity in the Alliance. They are continually mindful of the political links which bind them in an Alliance which is not solely military in character.

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52. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, April 23, 1954 [1]

At a ministerial meeting held in Paris today, five years after the treaty was signed, the North Atlantic Council reviewed the progress made by the organization, examined the present international situation, and exchanged views on problems of common interest. The meeting was attended by the Foreign Ministers of the member governments under the chairmanship of M. Bidault.

The Vice-Chairman and Secretary General, Lord Ismay, reported on the work of the organization. His survey emphasized the effective working relationship developing within the alliance, a relationship which goes beyond the formal obligations assumed by its members. The Foreign Ministers took this opportunity to reaffirm their association in the Atlantic alliance as fundamental to the policies of their respective governments. Recalling the defensive and peaceful aims of the treaty, they expressed their resolve to maintain and develop the alliance not only as the firm basis for the collective defense of their peoples, but also as an enduring association for common action and cooperation between the member states in every field.

After discussing international developments since its last meeting, the council found no evidence that the ultimate aims of the Soviet Union had altered, and noted that the military strength of the Soviet Union and its satellites continues to increase. The council therefore once more agreed upon the need for continuing efforts, vigilance and unity.

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[1] Department of State *Bulletin*, May 3, 1954, p. 670.

The council—reaffirming its long-established position that the institution of the European Defense Community is in the essential interest of the alliance—welcomed the ratification of the EDC treaty by a number of the signatories since the last Ministerial Meeting, which brings closer the entry into force of the treaty. The council also expressed its gratification at the far-reaching steps taken by the Governments of the United Kingdom and United States towards cooperation with the European Defense Community,[1] thus ensuring their lasting and close association with the defense of the continent of Europe.

With regard to the recent declaration by the Soviet Government on the status of their zone of occupation in Germany,[2] the council noted with approval that member governments of the organization had no intention of recognizing the sovereignty of the so-called German Democratic Republic or of treating the German authorities there as a government. It decided that the permanent representatives should draw up a resolution on this subject.

The council, with a view to developing further the habit of political consultation in the council, adopted a resolution on that subject, the text of which has been published separately.[3]

The council paid tribute to the gallantry of the French Union forces fighting in Indochina. It expressed the hope that the Geneva Conference will have positive results.[4]

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53. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, October 22, 1954 [5]

1. The North Atlantic Council held a Ministerial Session in Paris today under the Chairmanship of Mr. Stephanos Stephanopoulos, Foreign Minister of Greece. This meeting, which was attended by Foreign Ministers and Defence Ministers of member countries, dealt with issues of vital importance for the security of the free world, and for the promotion of greater European unity, within the framework of a developing Atlantic Community. In particular, the meeting

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[1] See British statement of Apr. 14, 1954 (*ibid.*, Apr. 26, 1954, pp. 620–621) and President Eisenhower's message of Apr. 15, 1954, to the heads of government of the EDC countries (*supra*, pp. 1198–1200).

[2] Soviet statement of Mar. 25, 1954; New York *Times*, Mar. 26, 1954.

[3] The resolution recommends "(A) that all member governments should bear constantly in mind the desirability of bringing to the attention of the Council information on international political developments whenever they are of concern to other members of the Council or to the Organization as a whole; and (B) that the Council in permanent session should from time to time consider what specific subject might be suitable for political consultation at one of its subsequent meetings when its members should be in a position to express the views of their governments on this subject." [Department of State *Bulletin*, May 3, 1954, p. 670, footnote 3.

[4] For materials on the Indochina phase of the Geneva Conference of 1954, see *supra*, pp. 750–788, and *infra*, pp. 2372–2398

[5] Department of State *Bulletin*, Nov. 15, 1954, pp. 732–733.

was called to approve arrangements designed to bring about the full association of the Federal Republic of Germany with the West, and a German defence contribution. On the invitation of the Council, Dr. Adenauer, Chancellor of the Federal Republic of Germany, attended the meeting as an observer.

2. The Council noted that all the agreements reached at the London Conference [1] and at the subsequent meetings of the Four and Nine-Power Conferences [2] form part of one general settlement which is directly or indirectly of concern to all the North Atlantic Treaty Powers and which was accordingly submitted to the Council. The Council welcomed this settlement.

3. The Council was informed of the agreement reached between the Foreign Ministers of France, the German Federal Republic, the United Kingdom and the United States of America in regard to ending the occupation regime in the Federal Republic.[3]

4. The Council was informed of the agreement reached on the text of four protocols [4] strengthening and extending the scope of the Brussels Treaty Organization—now Western European Union—expanded to provide for the participation of Italy and of the German Federal Republic, and on the text of accompanying documents. The Council welcomed this agreement and agreed with the provisions of the Protocols to the Brussels Treaty insofar as they involve action by the North Atlantic Council or other NATO authorities.

5. The Council welcomed the declaration made in London by the Government of the Federal Republic of Germany on 3rd October, 1954, and the related declaration made on the same occasion by the Governments of France, the United Kingdom and the United States.[5] It noted with satisfaction that the representatives of the other parties to the North Atlantic Treaty have today associated themselves with the declaration of the Three Powers.[6]

6. The Council approved a resolution to reinforce the existing machinery for the collective defence of Europe, chiefly by strengthening the powers of the Supreme Allied Commander Europe.[7]

7. The Council approved a Protocol to the North Atlantic Treaty inviting the Federal Republic of Germany to join NATO.[8] The Protocol will be signed tomorrow by the fourteen Foreign Ministers, and will enter into force when each of the Parties to the North Atlantic Treaty has notified the Government of the United States of America of its acceptance, and when all instruments of ratification of the Protocol Modifying and Completing the Brussels Treaty have been deposited with the Belgian Government, and when all instruments of ratification or approval of the Convention on the Presence of

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[1] See the Final Act of the London Conference, Oct. 3, 1954; *supra*, pp. 1474–1491.

[2] See *supra*, pp. 483–612 and 1492–1493.

[3] Agreement of Oct. 23, 1954; *supra*, pp. 483–485.

[4] Protocols of Oct. 23, 1954; *supra*, pp. 972–989.

[5] Part V of the Final Act of the London Conference, *supra*, pp. 1481–1483.

[6] Resolution of the North Atlantic Council; *London and Paris Agreements, September-October 1954* (Department of State publication 5659; 1954), p. 36.

[7] Resolution of Oct. 22, 1954; *supra*, pp. 1493-1496.

[8] Protocol of Oct. 23, 1954; *supra*, pp. 871–873.

Foreign Forces in the Federal Republic of Germany have been deposited with the Government of the Federal Republic of Germany.

8. The Council heard a statement by the Foreign Minister of Italy on the recent agreements reached on the Trieste problem.[1] The value of these agreements from the Atlantic and European point of view was emphasized.

9. The Council agreed to hold its next Ministerial Meeting on or about 15th December next.

10. The Council reaffirmed that the North Atlantic Treaty remains a basic element in the foreign policies of all member governments. It agreed that there must be the closest possible cooperation between Western European Union and the North Atlantic Treaty Organization in all fields and that any duplication of the work of existing agencies of NATO will be avoided. The Council reaffirmed its unity of purpose in the pursuit of peace and progress. The present conference and the agreements reached represent a new and decisive step in the development of the Atlantic Community.

11. The text of the agreements and documents will be issued separately tomorrow, Saturday, October 23, after the signing ceremony.

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54. THE FIRST FIVE YEARS OF NATO: Report by the Secretary-General of NATO,[2] November 1, 1954 (Excerpt) [3]

Chapter IX. The Increase in Strength

It would be easier to describe the progress that has been made in increasing the armed strength of NATO during the last five years if this had resembled a line of guardsmen on parade advancing steadily in review order. But it has not, of course, been anything like that. Progress was slow at first, suddenly feverish, galvanised by the shock of the aggression in Korea, then steady and sustained. The point has now been reached at which much has been achieved, but a great deal still remains to be done.

Owing to the multiplicity of human endeavour and the large geographical area involved, progress was faster in some areas and some directions than in others. For instance, fighting units were raised more quickly than the logistic support necessary for them to take part in sustained operations. In our attempt to describe these changes in tempo, and to summarise the achievements of such a considerable undertaking, let us not forget that all figures of divisions or ships or aircraft are only approximations. A division, for example, may consist of anything from 10,000 to 25,000 men, of whom probably half would actually come to grips with the enemy. The rest exist to ensure that the rifleman or the tank crew can be brought to the front line and supplied with ammunition, food, clothing and the necessities of life. If the communications in one division are bad, if the junior leadership in another is poor, or if the Commander of a third proves incompetent, then the value of each formation is lowered: but by how much it is impossible to say. So "division counters"—those who would judge the fighting quality of armies by the criterion of numbers only—are on dangerous ground.

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[1] See quadripartite understanding of Oct. 5, 1954; *supra*, pp. 423–425.

[2] Lord Ismay.

[3] Department of State *Bulletin*, Mar. 28, 1955, pp. 506–514. For the full text of the report, see *NATO: The First Five Years, 1949–1954* (Utrecht, 1955).

The Strategic Concept

In order to determine the size and pattern of the forces required for any particular purpose, the first essential is to have a strategic concept based on an estimate of the intentions and capabilities of the potential enemy. The next step is to determine the broad strategic plan. Thereafter the size and pattern of the forces that are required follow more or less automatically: but the speed with which they are raised depends on a number of factors, foremost of which are the estimate of the imminence and magnitude of the threat, and the economic conditions of the contributing countries.

The strategic concept approved by the North Atlantic Council in January, 1950, laid down that the primary mission of the military forces of Nato was to deter aggression.[1] Only if this mission was unsuccessful were these forces to be used against armed attack. This concept has never changed. It is as valid today as it was four years ago. We saw in Chapter IV that the broad strategic plan resulting from this concept was to hold the potential enemy as far to the east in Europe as possible.[2] Today, this "forward strategy" is even more necessary in view of the tremendous range of modern weapons, guided missiles, rockets and long-range artillery—perhaps using atomic heads. German participation in the defence of the West is therefore a stern necessity, and German participation postulates a defence covering as much as possible of Western Germany.

Early in 1950, the Standing Group[3] issued strategic guidance to the Regional Planning Groups[4] and instructed them to make plans on the hypothesis that war would break out in 1954. Needless to say, the reason for the selection of this date was purely academic: it was sufficiently far ahead for long-range planning, but not too remote to make plans unrealistic. These plans, when completed, were coordinated by the Standing Group which then estimated roughly the total aggregate forces required to defend the Nato area. The Regional Planning Groups also produced emergency plans to be used in the event of a sudden outbreak of hostilities.

After the establishment in April, 1951, of Allied Command Europe, the military planning of NATO changed not only in tempo but in character. The Regional Planning Groups had produced plans—the outcome of committee work—at a time when there were no NATO assigned forces. The plans produced by Supreme Headquarters were backed by the personality of a Commander who would himself wield operational control in time of war, who had the prestige necessary to obtain results, and who had forces definitely assigned to him.

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[1] See the communiqué of the Third Session of the North Atlantic Council, Jan. 6, 1950; *supra*, p. 1604.

[2] *NATO: The First Five Years*, pp. 31–38.

[3] For the terms of reference and functions of the Standing Group, see Section V of the Final Communiqué of the First Session of the North Atlantic Council, Sept. 17, 1949; *supra*, pp. 1594–1600.

[4] For the terms of reference and functions of the Regional Planning Groups, see Section VI, *ibid.*

THE STAGES OF THE BUILD-UP

A summary comparison of the forces available in December, 1949, (when planning began), in April, 1951, (when SHAPE was activated) and in December, 1951, (eight months later) provide a good illustration of the variations in tempo. In December, 1949, the forces available to NATO were estimated at about 12 divisions, 400 aircraft and a proportionate number of naval vessels. Fifteen months later, in April, 1951, there were only "fifteen NATO Divisions" and "fewer than 1,000 operational aircraft." The increase in forces and aircraft had, in fact, been inconsiderable, although the position from a naval point of view was somewhat better. But eight months later, in December, 1951, the prospect was brighter. By that date the NATO forces were approximately 35 divisions, in varying states of readiness, slightly less than 3,000 aircraft and 700 naval vessels.

A comparison of numbers alone, however, does not give the full picture of the change in combat effectiveness. By December, 1951, the NATO forces were no longer a mere collection of national units; their training had been substantially improved by a series of manoeuvres held in the autumn and they were beginning to gain cohesion. In addition, a great effort was being made to provide them with better logistic support: this included the construction of airfields, the improvement and extension of communications and the provision of support troops. Finally, not only was SHAPE itself a going concern, but its subordinate Headquarters in the North and South were already functioning satisfactorily, as of course were the Headquarters in the Centre, which had been established in late 1948 under the Western Union Defence Organization.[1]

A new phase in the build-up came after the meeting of the Council at Lisbon in February, 1952.[2] As a result of the consideration of the report of the Temporary Council Committee,[3] the goals to be achieved by December, 1952, were set at 50 divisions (of which 25 were to be active), about 4,000 aircraft, and a large number of naval vessels.

The basic idea was that the active forces should form a shield capable of withstanding the initial shock of any aggression, and that the reserve forces should be mobilised and moved up to support the shield as rapidly as possible.

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[1] The Western Union Defense Organization was established as a step in the implementation of the Brussels Treaty of Mar. 17, 1948 (*supra*, pp. 968–971). The details of the Organization were agreed to at a meeting of the Defense Ministers of the five member countries, Sept. 27–28, 1948, and were approved by the Consultative Council of Western Powers in Paris, Oct. 25–26, 1948. See *Documents on American Foreign Relations*, vol. X (Princeton, 1950), p. 584.

[2] See the communiqué of the Ninth Session of the North Atlantic Council, Feb. 26, 1952; *supra*, pp. 1620–1624.

[3] See statement of Feb. 24, 1952; *supra*, pp. 1618–1620.

THE POSITION IN APRIL, 1952

Two months after the Lisbon Conference, General Eisenhower was able to report [1] that substantial progress had been made in the year since SHAPE was activated.

> Already [he wrote] our active forces have increased to a point where they could give a vigorous account of themselves, should an attack be launched against us. In terms of army divisions, whether in service or quickly mobilisable, our forces in Western Europe have nearly doubled in numbers. The national units pledged to this command a year ago were for the most part poorly equipped, inadequately trained and lacking essential support in both supplies and installations. Because of their weakness on all fronts and the absence of central direction, they could have offered little more than token resistance to attack. Today, the combat readiness of our troops has improved markedly. Readjustments in their deployment have enhanced their potential effectiveness against the threat from the East. Behind them is a steadily expanding supply system, and a command organization to plan and direct their co-ordinated efforts . . . . the tide has begun to flow our way and the situation of the free world is brighter than it was a year ago.

This encouraging account of progress was, however, qualified by General Eisenhower on the first page of the same Report: "There is no real security yet achieved in Europe; there is only a beginning."

During 1952, the build-up gathered momentum and as a result the goals which had been set by the Council at Lisbon were for the most part substantially achieved numerically by the end of the year. Nevertheless, the state of readiness of the forces was not in all cases as high as had been planned, and there were still serious deficiencies in support units, equipment and supplies.

As the forces grew, so the military structure of NATO expanded. As shown in Chapter VII,[2] the Atlantic Command and the Channel Command both came into being during the spring of 1952, and later that year Headquarters were set up at Izmir to control NATO forces in Greece and Turkey. In addition the details of the Mediterranean Command were agreed in November, 1952:[3] the Headquarters at Malta did not, however, become operational until the following year.

The great design was beginning to take shape; but there were no grounds for immoderate optimism, still less for any relaxation of effort. For, while the Atlantic Alliance was gaining in strength, so also were the Soviets and their European satellites. The equipment of the Soviet Army was being constantly improved; the Soviet air forces were being largely re-equipped with jet aircraft; airfield construction was proceeding apace throughout Eastern Europe; the Soviet naval programme included the construction of a growing number of ocean-going submarines as well as a large number of surface vessels, and the forces of Russia's satellites were rapidly increasing in numbers and improving in quality.[1] Despite, therefore, the remarkable progress in the military strength of NATO, it was clear that further sustained efforts were required.

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[1] Report of Apr. 2, 1952; Department of State *Bulletin*, Apr. 14, 1952, pp. 572–579.

[2] *NATO: The First Five Years*, pp. 68–88.

[3] See the communiqué of the Ministerial Session of the North Atlantic Council, Dec. 18, 1952; *supra*, pp. 1629–1631.

This was made abundantly clear by General Ridgway in his Annual Report to the Standing Group of May, 1953: [2]

> . . . Within the strictly military field [he wrote] I find the disparity between our available forces and those which the Soviet rulers could bring against us so great as to warrant no other conclusion than that a full-scale Soviet attack within the near future would find Allied Command Europe critically weak to accomplish its present mission.

The disparity of which General Ridgway spoke was not merely a question of numbers. To be equal to their task it was necessary for the forces of NATO to be, not only sufficiently numerous, but also of high quality, properly supported logistically, well-equipped and backed by adequate and efficient reserves. With these considerations in mind the Council decided in December, 1952,[3] that, while there was a continuing need for progressively increasing the number of NATO forces, the emphasis during 1953 should be on improving combat efficiency.

INTERNATIONAL EXERCISES

There are several ways in which the combat efficiency of forces can be improved. Perhaps the most obvious is by training. During 1953, there were approximately 100 exercises of various kinds conducted by NATO Commanders. All of these revealed the spirit of co-operation which has now become characteristic of NATO. Among them were the "indoor exercises" conducted at SHAPE by Field Marshal Montgomery, on behalf of the Supreme Commander, to study the major problems confronting the Higher Command. There were, in addition, Command Post exercises destined to test the efficiency of subordinate Headquarters. But the vast majority of exercises involved operations by the fighting forces themselves.

As an example of the character and scope of these exercises, let us take the story of Exercise "Mariner". This took place at the end of the summer of 1953 and was the largest international naval exercise ever held. It was sponsored jointly by SACLANT, SACEUR and the Channel Commanders. Nine countries, almost fifty different types of ships, and twenty types of aircraft took part. The exercise lasted nineteen days, and included convoy protection, naval control of shipping and striking fleet operations in northern waters. In order to make the training as realistic as possible, the enemy role was taken by surface raiders, submarines and land-based air elements drawn from NATO forces.

In summing up the value of these combined exercises Admiral

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[1] For detailed estimate of Soviet and satellite forces, see Annex B. [Footnote in original report.]

[2] Report released May 30, 1953; for excerpts, see Department of State *Bulletin*, June 29, 1953, pp. 899–904.

[3] See *supra*, pp. 1629–1631.

McCormick[1] stated that the errors which had taken place were fully understandable in view of the tremendous task of co-ordinating international forces of such size and complexity, and that the lessons learned would be invaluable to future planning.

Lest the number and variety of ships and aircraft having undergone NATO training present too optimistic a picture of the forces available to SACLANT for the accomplishment of his mission, it must be placed on record that there is at present a grave shortage of escort vessels and maritime aircraft.

In Allied Command Europe most of the manoeuvres were designed to integrate the forces of countries, unaccustomed to working together, into a co-ordinated fighting machine, and to practise headquarters and staffs in their wartime role. During division and corps manoeuvres the co-operation of air forces with ground forces was stressed, logistical support was emphasized, and inter-allied liaison co-operation practised when possible. The following are examples of exercises held in Allied Command Europe in 1953:

1. Exercise "Italic Weld" was conducted in the general area of Northern Italy during August. It involved the land, air and naval forces of the United States and Italy, together with the air forces of Greece and Turkey.
2. Exercise "Weld Fast" was conducted in the general area of Greece, Turkey and the Aegean Sea during October, and involved naval and air forces of the NATO Southern Command and the Greek and Turkish air and land forces. It was designed to test the training and co-operation of assigned and earmarked forces in Southern Europe.
3. Exercise "Grand Repulse" was held in Germany near Osnabruck during September by the British Army of the Rhine and the Netherlands Corps together with considerable air participation from the Allied air forces of Central Europe.
4. Although atomic conditions had been simulated in earlier exercises, Exercise "Monte Carlo", conducted by the Central Army Group during September, was the first instance of a NATO air-ground exercise in which atomic weapons were simulated for manoeuvre purposes. The forces included United States, Belgian and French troops, and the area of manoeuvre was in Germany along the east bank of the Middle Rhine.

The combat efficiency of the armed forces of a coalition largely depends on the extent to which the various national components are trained on uniform lines and use the same systems of staff work and the same operational procedures and techniques. As explained in Chapter VII,[2] the Military Agency for Standardisation is responsible, *inter alia*, for studying and fostering the standardisation of operational and administrative practices throughout the armed forces of all member countries: and international exercises have provided opportunities for these "back-room" studies to be tested out in practice. As a result, remarkable progress has been made in all directions, particularly in respect of naval and air forces.

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[1] Supreme Allied Commander Atlantic until April 1954. [Footnote in original report.]

[2] *NATO: The First Five Years*, pp. 79–80.

It must of course be remembered that the North Atlantic coalition started off with the advantage that many of the member countries had had experience of working together as Allies in World War II; and that there were a number of officers and men still serving in the armed forces of those countries who were available to apply that experience to the new conditions and to place it at the disposal of the Allies as a whole.

THE TRAINING OF RESERVES

While Supreme Commanders are responsible for international manoeuvres, the training of reserves is a national responsibility. Reserve training liability varies considerably amongst the NATO countries. The importance of this training can hardly be exaggerated, since the successful defence of Western Europe would largely depend upon the combat efficiency of the reserve formations and the speed with which they can be mobilised and brought into action.

The limiting factor is money. Indeed two member states carried out no reserve training in 1953 simply because they could not afford it. On the other hand, the larger proportion of European members of the Alliance did carry out practice mobilisation and training of reserves in varying degrees in 1953 and 1954.

Belgium mobilised a complete division, which trained for 30 days and carried out divisional manoeuvres. It also called up certain other nondivisional troops for training. France called up sufficient reservists to bring three semi-active divisions to full strength. These, as well as many corps and army troops, were then engaged in training. Luxembourg called up and trained a brigade headquarters and two battalions. The Netherlands mobilised one division which trained as a complete formation: another division was called up for brigade training. Portugal called up reservists for a divisional exercise. Greece, in this particular period, was only able to call up one battalion. In the United Kingdom, all Territorial Army formations, and some Army Emergency Reserve units carried out annual training, including fourteen days in camp. Early in 1954, Norway carried out winter manoeuvres which involved calling up three reservist brigades, two divisional headquarters with divisional supporting units and certain local defence units. Manoeuvres were then held involving two divisions.

Air Training Problems: To help nations, themselves lacking in the facilities for training aircrews, the United States and Canada have sponsored an important training scheme for pilots, navigators and radar observers from other NATO countries. Up to the end of 1953, approximately 2,200 pilots and 2,400 other specialised aircrew from other NATO countries had been trained in Canada and the United States. The United States has also provided trainer aircraft to enable European countries to expand their own training programmes. Mention has been made in Chapter VII of the Air Training Advisory

Group which was established to advise and assist nations on air training problems.[1] All these efforts have been successful not only in meeting the initial heavy demand for aircrews, but also in providing crews for the frontline aircraft which are planned to be available in 1955.

To improve NATO training as a whole, a number of specialist schools have accepted students from other NATO nations which do not have the same facilities. Amongst these are the French Combined Training Establishment at Arzew (Algeria), the School of Land-Air Warfare at Old Sarum (UK), the joint Anti-Submarine School at Londonderry (UK), the technical and maintenance schools of the United States Army in Germany and the United States Weapons Schools at Garmisch (Western Germany), which trains Allied Commanders and staff officers in the military implications of atomic weapons. In addition, SHAPE Military Missions are operating in the Netherlands, Portugal and Luxembourg, which all asked for help in their training problems.

During 1953, considerable progress was made towards improving the logistics situation. For example, reserve stocks of most of the member countries—which had been dangerously low, particularly in ammunition—were increased, although substantial shortages still exist today. The combat efficiency of NATO armed forces has also been considerably enhanced by the progress of the common infra-structure programme, described in the next chapter.[2]

FORCES WITH SPECIALISED MISSIONS

There are certain military forces not assigned or earmarked to any of the Supreme Commands, but which are nevertheless of great value to NATO. Although these forces are retained directly under national command their potential contributions to the defence of the West are massive and might be decisive. For example, the United States Strategic Air Command, based largely in North Africa, the British Isles and the United States, is of particular importance as a deterrent force. Similarly, the United Kingdom Bomber Command is equipped and trained for strategic air operations. The United Kingdom also has a large interceptor force for the defence of the British Isles. Finally, each NATO country is responsible for the defence of its own coastal waters, and therefore retains some naval forces primarily equipped for inshore minesweeping, harbour defence and similar tasks.

PROGRESS IN 1953

The progress made during the year 1953 may be summarised as follows. In land forces there was little numerical increase, but their efficiency had considerably improved as a result of combined training; while support units increased during the year by 40 per cent.

The number of aircraft increased by about 30 per cent, with again a major improvement in quality, particularly in the provision of modern jet types. At the same time there was a steady improvement in the numbers and quality of air and ground crews.

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[1] *NATO, the First Five Years*, pp. 80–81.

[2] Chapter X, *ibid.*, pp. 114–124.

The naval forces actually in commission, and those immediately available in case of war, did not increase greatly in number during 1953, but they were better trained to work together.

If we now attempt to sum up NATO's accomplishments in the military field, we find that three years after Allied Command Europe began to function, the land forces directly available to NATO have increased to some 100 divisions—both active and reserve—in varying states of combat readiness. It must be realised, of course, that this improvement is due partly to increases in the forces of the original member states, and partly to the addition of the Greek and Turkish forces which joined the Alliance in 1952: this latter contribution must be balanced against the additional responsibility accepted by NATO in South Eastern Europe. The progress is, nevertheless, impressive. In the air, NATO has almost doubled its strength, and there are some 125 air bases available to the NATO squadrons. As regards naval forces, large building and modernisation programmes have been undertaken, with the result that the number of additional ships available for commissioning after mobilisation has increased by some 30 per cent since 1951 and they are of higher technical quality.

On the 15th December, 1953, the North Atlantic Council met to carry out their annual examination of the progress of NATO forces, and to take decisions which would govern the future conduct of policy.[1] They concluded that their assessment of Soviet policy and capabilities required that the military plans of the Alliance should be based on the expectations of a continuing threat to the security of the North Atlantic Community over a long period. Accordingly, they agreed that it would be necessary for member countries to support over a long period of years forces which, by their balance, quality and efficiency of armament, would be a major factor in contributing to the effective security of the NATO area. In other words the Council contemplated a "long haul".

In furtherance of this policy, the Council resolved that member governments, the International Staff, and the NATO military authorities should have as their future military objectives the development of a balanced collective force, both active and reserve, planned to meet a continuing threat, maintained in the highest practicable state of readiness, and supported by adequate reserves of material.

The NATO military authorities were directed, *inter alia:*

1. to keep under continuous review, within the framework of the agreed strategic concept, the size and nature of the forces required to defend the NATO area, taking account of developments in military technology, Soviet capabilities, and the overall strategic situation, in order to provide general guidance to NATO defence planning.
2. to press on with their reassessment of the most effective pattern of military strength in the next few years within the resources which it is anticipated may be made available.

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[1] See the Council's communiqué of Dec. 16, 1953; *supra*, pp. 1633–1636.

THE FUTURE

The problem before NATO in 1954 has changed since the hectic days of early 1951, and even since the balanced appraisal at Lisbon in February, 1952. NATO's present task is not only to maintain the armed strength in being, or coming into being, but also steadily to improve its quality, in spite of the fact that economic difficulties still persist, and that there is perhaps a diminished sense of urgency.

The advent of new weapons has also set a difficult problem, which is now being studied by NATO's Supreme Commanders. When the results of these studies have been considered by the Standing Group and by the Military Committee, the Council will receive their recommendations, and make their decisions. Until this has been done, it would be both unwise and misleading to hazard any guess as to the future. At present it can only be surmised that the existing conventional forces will have to be maintained until and unless it is clearly shown that the advance of science has rendered them obsolete.

This chapter may well conclude with extracts from statements made by NATO Commanders in 1954.

In January, General Gruenther said:

> We have . . . an air-ground shield which, although still not strong enough, would force an enemy to concentrate prior to attack. In doing so, the concentrating force would be extremely vulnerable to losses from atomic weapon attacks. . . . We can now use atomic weapons against an aggressor, delivered not only by long-range aircraft, but also by the use of shorter range planes, and by 280 mm. artillery. . . . This air-ground team constitutes a very effective shield, and it would fight very well in case of attack. We think that it is of such strength that the Soviets do not now have in occupied Europe sufficient air and ground forces to be certain of overwhelming this shield. Of course, the Soviets can move in additional forces to overcome that deficiency. But if they do, we should be able to get some warning of an impending attack. As a result of that warning, we ought to be able to increase our defensive strength considerably. In particular, we should be able to alert our air forces.[1]

In June, 1954, General Gruenther told the English-Speaking Union in London that NATO had available 90 to 100 divisions in varying degrees of readiness, i. e., three to four times as much land power available as when General Eisenhower first took command.[2] "The air build-up has been even greater", General Gruenther stated. Indeed, he went so far as to say that, in his judgment, the Soviet would in the end be severely defeated if it attacked the Western Powers in 1954. Nevertheless, he added the warning that this situation might not endure, and that he doubted whether time was on the side of the Alliance.

On the naval side, let us turn to Admiral McCormick's report to the Standing Group in April, 1954. He pointed out the considerable progress which has been made within the Atlantic Command in the last two years. He stressed the mutual benefit derived by all national components from the major NATO naval exercises, and emphasized that, while these exercises provide the means for solving many inherent problems, they also indicate the substantial inadequacy of the forces presently earmarked for SACLANT when related to the mission entrusted to him.

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[1] Statement of Jan. 3, 1954; New York *Times*, Jan. 4, 1954.

[2] Address of June 8, 1954; excerpts in *Keesing's Contemporary Archives*, June 19–26, 1954, p. 13640.

Admiral McCormick, in a BBC address, had previously said:

> The desperate days of World Wars I and II cannot be forgotten. Also I ask you not to forget the tremendous number of ships and aircraft which were finally required in both those wars to bring about the final days of victory. When I compare them to those I now see available to me, I cannot say that I am happy. . . . We must continue to exert every pressure. . . . to continue the planned build-up of NATO strength.

The increase and improvement, during the last five years, of the forces of the North Atlantic Treaty Organization have enabled them to come nearer to achieving their main object—to deter aggression. How much our growing defensive strength has already contributed to maintaining peace in Europe no one can measure precisely. One thing at least is certain, and that is that peace has been preserved.

ANNEX A

TOTAL DEFENCE EXPENDITURES OF NATO COUNTRIES 1949–1953 [1]

Country	Currency Unit	1949	1950	1951	1952	1953
Belgium	Million Bel. Frs.	7, 653	8, 256	13, 387	20, 029	19, 901
Canada	Million Can. $	372	495	1, 220	1, 875	1, 960
Denmark	Million Dan. Kroner	360	359	475	676	889
France	Milliard Fr. Frs.	479	559	881	1, 297	1, 451
Greece	Million Drachmae	1, 630	1, 971	3, 345	2, 470	2, 767
Italy	Milliard Lire	301	353	457	521	480
Luxembourg	Million Lux. Frs.	112	170	264	436	489
Netherlands	Million Guilders	680	901	1, 060	1, 253	1, 330
Norway	Million Nor. Kroner	370	357	572	831	1, 067
Portugal	Million Escudos	1, 436	1, 530	1, 565	1, 691	1, 975
Turkey	Million Lire	721	693	763	860	1, 080
United Kingdom	Million £ Sterling	779	849	1, 149	1, 561	1, 689
United States	Million US $	13, 300	14, 300	33, 216	47, 671	49, 734
AREA						
NATO Europe	Million US Dollar equivalents	4, 831	5, 413	7, 605	10, 312	11, 227
NATO North America	Million Dollars	13, 672	14, 795	34, 436	49, 546	51, 694
TOTAL NATO	Million US Dollar equivalents	18, 503	20, 208	42, 041	[2] 59, 798	[2] 62, 773

NOTE.—These figures are on the basis of the NATO definition of defence expenditures, and represent actual payments made during the calendar year. They may differ considerably from the amounts given in national budgets, which frequently relate to budgetary classifications differing more or less widely from the NATO definition, and which in some countries include substantial amounts which may be carried over for actual expenditures in subsequent years, in accordance with varying national budgetary practices. The figures are not limited to expenditures for the support of NATO forces, but include other defence expenditures as well.

Figures for the United States and Canada include expenditures for the procurement of military equipment to be furnished as end-item aid to European NATO countries. Figures for European NATO countries do not include any allowance for the value of this equipment.

Economic and defence support aid is not included in the defence expenditures of the United States. The national currency counterpart of US economic and defence aid, to the extent used for defence purposes, is included in the defence expenditures of the recipient countries. [Footnote in original report.]

[1] The table contains the figures as they were known on July 1, 1954. Since that date, the figures for some countries have undergone slight modifications. [Footnote in original report.]

[2] Expenditures financed from US Special Military Support are included in the figures for both the United States and France. These amount to 60 million dollars (21 milliard French francs) in 1952 and 148 million dollars (52 milliard French francs) in 1953. The "TOTAL NATO" figures have been adjusted to eliminate double counting of these amounts. [Footnote in original report.]

ANNEX B

SOVIET ARMED STRENGTH

(as estimated in 1954)

Since 1947, the numerical strength of the Soviet ground forces has remained fairly constant at 175 divisions: but their mobility and fire-power have been greatly increased by mechanisation and modernisation of equipment. There are now 65 tank and mechanised divisions: the rifle divisions have been motorised and equipped with tanks and additional artillery. The Soviet potential in airborne troops has been considerably increased since World War II.

The number of satellite divisions has almost doubled since 1947, bringing their total to about 80 divisions.

The USSR, Eastern Germany and the East European satellites today have an aggregate of over six million men under arms. Approximately 4½ million of these are in the ground forces. A high state of preparedness is maintained by a rigorous training programme.

The USSR has a ready-made spearhead for a rapid advance into Western Europe. This is composed of 22 Soviet divisions in Eastern Germany. The bulk of these are armoured divisions with nearly a complete complement of tanks and self-propelled guns. Behind this spearhead there are an additional 60 Soviet divisions located in the Eastern European satellite countries and Western USSR. (This does not take into account satellite divisions).

The Soviet mobilisation system is tested periodically. It is estimated that, 30 days after mobilisation, the Soviet and satellite ground forces could number 400 divisions.

The numerical strength of the Soviet air forces in recent years has been constant at about 20,000 aircraft; but very considerable modernisation has taken place. In 1951, about 20 per cent of their fighters were jet types: by early 1954, almost all of their fighters were jet types. In early 1951, jet light bombers had not been introduced into operational units: by 1954, well over two-thirds of their light bomber force were jets. In the medium bomber category, the Soviets have, since 1951, doubled the number of Tu-4s (similar to the US B–29) in operational units. Still newer types of jet fighters have recently appeared. Newer types of medium and heavy bombers, including jet models, have also been observed.

The development of a comprehensive aviation training programme has substantially enhanced the capability of Soviet air power.

Up to 1951, the combat value of the satellite air forces was insignificant, and their aircraft were obsolete. By 1954, not only had their numerical strength been doubled, but nearly half of their fighters were jets. In addition their facilities have been improved, and training has reached a fairly satisfactory standard.

In the past three years the Soviets have about tripled the number of major airfields in Eastern Europe which will accommodate jet fighters. This construction is still proceeding, especial attention being directed to the provision of very long runways.

The growing complex of airfields throughout Eastern Europe, the aircraft control and warning systems and anti-aircraft artillery dispositions of the Soviet bloc are rapidly becoming capable of providing an effective air defence belt along the western perimeter of the USSR.

The Soviet navy has over 300 submarines in service of which about half are large or medium ocean-going types. The current large-scale naval construction programme lays emphasis on the continued production of large ocean-going submarines. Moreover, the surface forces include three battleships, 24 cruisers and 150 destroyers.

There are large stock-piles of sea mines, and the Soviet have considerable power of minelaying both by sea and air.

There have been remarkable developments in the fields of atomic, chemical and biological warfare, and of guided missiles.

The Soviet economy has maintained a level of military production which has proved sufficient not only to provide equipment and supplies for the Soviet and satellite forces, but also to increase their stockpiles. They have, for example, more than enough tanks, mortars, and anti-tank guns for some 300-odd Soviet divisions, and their stockpile of field artillery and anti-aircraft artillery is several times that required to supply those divisions. Production of these items is continuing apace.

55. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, December 18, 1954 [1]

1. The North Atlantic Council, meeting in Paris in ministerial session under the chairmanship of Mr. Stephanos Stephanopoulos, Foreign Minister of Greece, completed its work today. It was attended by ministers of foreign affairs, defence, finance, economic affairs and defence production.

2. The Council noted the progress report by the Secretary General covering activities and developments in the organization during the past twelve months.

Ministers welcomed the extension of political consultation within the Council.

They noted with interest the steady progress in the infrastructure programmes and in emergency planning in the civil field, and recommended the continuation of these studies and of this work, in particular in civil defence.

The report referred to the dissemination of information about NATO and to the forthcoming publication of the Secretary General's five-year report.[2] It also emphasized the value of the visits of parliamentarians, of the development of voluntary organizations interested in NATO, and of the tours of journalists to member countries.

3. In accordance with its regular practice, the Council exchanged views on matters of common concern in the international situation.

The Council welcomed the efforts being made under the aegis of the United Nations for a worldwide agreement for a general limitation and control of armaments.

4. The Council agreed that Soviet policy, backed as it is by ever-increasing military power, continues, in spite of some outward signs of flexibility, to be directed towards weakening and dividing the Western nations. Soviet policy contributes no constructive solution for ensuring world security and for maintaining the freedom of peoples. It provides no ground for believing that the threat to the free world has diminished.

The Council reaffirmed its will to build for peace on solid foundations of unity and strength. The Council noted with satisfaction the progress which has been made towards bringing into effect the Paris Agreements [3] which it regards as an essential contribution to the unity of Europe, to the security of the free world, and thereby to the cause of peace.

5. The Council took note of a progress report submitted by the Military Committee. It noted with satisfaction that a request by SACEUR [Supreme Allied Commander Europe] had led to negotiations between the Netherlands and the United States, the recent completion of which will permit the establishment of a SHAPE [Supreme Headquarters, Allied Powers in Europe] air defence technical centre in The Hague at which scientists of all member nations will be able

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[1] Department of State *Bulletin*, Jan. 3, 1955, pp. 10–12.

[2] See *NATO: the First Five Years, 1949–1954;* excerpt printed *supra.*

[3] See *supra*, pp. 483–612 and 972–989.

to contribute to the development of air defence.[1] The Council also noted that the NATO Defence College, now in its fourth year, has made a valuable contribution of qualified personnel to staffs and agencies of NATO and of member governments.

6. The Council considered a report by the Military Committee on the most effective pattern of NATO military defensive strength over the next few years, taking into account modern developments in weapons and techniques. It approved this report as a basis for defence planning and preparations by the NATO military authorities, noting that this approval did not involve the delegation of the responsibility of governments to make decisions for putting plans into action in the event of hostilities.

7. The Council considered the report on the annual review for 1954, which sets forth the coordinated NATO defence programmes for the next three years. The review was based on the Council directive adopted in December, 1953, that it would be necessary for member countries to support over a long period forces which, by their balance, quality and efficiency, would be a major factor in deterring aggression.[2]

The ministers considered and accepted as military guidance a report by the Military Committee giving its comments on the 1954 annual review. This report stressed that the level of forces for the defence of the NATO area should be maintained as planned.

The Council noted that there had been an increase in the strength of NATO forces and further steady improvement in their efficiency over the past year. This improvement in quality resulted primarily from the large-scale combined exercises held by NATO land, sea and air forces, from the increases in operational and support units and from the supply of large quantities of new equipment.

The Council expressed its satisfaction at the expansion of European production of defence equipment as well as the continued provision of North American equipment, and urged continued cooperation in research and development.

Following the recommendations made in the annual review report, the Council adopted firm force goals for 1955, provisional goals for 1956 and planning goals for 1957. The force goals agreed upon for 1955 are of about the same numerical strength as those for 1954, but further improvements in training, equipment and effectiveness are provided for. The German defence contribution under the Paris Agreements remains, in the opinion of the Council, an indispensable addition to the defence effort of the West.

8. The Council noted with satisfaction the encouraging economic developments in many member countries over the past year and particularly the expansion of production in several European countries. The additional resources thus made available have enabled further improvements to be made in general welfare and social progress, while at the same time permitting a continued contribution towards increases in the strength and effectiveness of NATO forces. The Council recognised that further steady growth in the economic strength of the

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[1] Agreement of Dec. 14, 1954; TIAS 3236 (6 UST 915).

[2] See *supra*, pp. 1633–1636.

alliance as a whole is essential in order to preserve and increase the well-being and security of all member countries, and that to this end it is necessary to strengthen economic cooperation between member countries.

56. STATEMENT BY THE SECRETARY OF STATE AT A NEWS CONFERENCE, DECEMBER 21, 1954 [1]

I returned yesterday from the Paris meeting of the NATO Council• The communiqué which was issued [2] reports in summary form what took place. I would like to comment briefly on two items in the communiqué.

The first was the statement that Soviet policy continues to be directed toward weakening and dividing the Western nations and that the threat to the free world has not diminished. It is significant that there was complete agreement on this proposition by all of the 14 nations represented on the NATO Council.

During the course of the discussion of this matter at the Council, I made a statement on behalf of the United States delegation in which I said that Soviet policy is like a poweful stream, the surface of which is sometimes ruffled, the surface of which is sometimes calm, but that we cannot judge the force and direction of the current merely by looking at the surface manifestations. The important thing, I said, is that we should proceed in our own way, steadily building our own strength and our own unity upon which our strength depends. There were, I said, three great dangers to be avoided:

(1) that we might by surface calm of the Soviet stream be lulled into a false sense of security;

(2) that by the rough appearance of the Soviet stream we might be frightened into a state of paralysis, or

(3) be provoked into ill-considered and divisive action.

In developing the first danger, I pointed out that behind the recent Soviet peace offensive was to be found ever-increasing military strength far beyond defensive needs and the development of subversive activities in every free country, and notably attempts to exploit the theme of colonialism so as to divide and weaken the free world.

In connection with the second danger—being frightened into inaction—I quoted violent Soviet threats which had been directed against the West in connection with the Marshall plan, the adoption of the North Atlantic Treaty, the adherence of Turkey to the North Atlantic Treaty, the development of the Federal German Republic in West Germany, and against Yugoslavia when it broke loose from the Soviet Communist orbit. At that time, the Soviet Union denounced the treaty of friendship which had been made in 1945 between Yugoslavia and the Soviet Union.[3]

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[1] Department of State *Bulletin*, Jan. 3, 1955, pp. 9–10.

[2] Communiqué of Dec. 18, 1954; *supra*.

[3] Treaty of Apr. 11, 1945; *Documents and State Papers*, July 1948 (Department of State publication 3171), p. 231.

I recalled that, at the time of the conclusion of the Japanese peace treaty,[1] the Communists had suggested that, since the peace was not joined in by the Soviet Union, it was a separate peace which violated the armistice [2] and that the Soviet Union would be free to resume hostilities.

There is a striking parallel in the past to what is going on in the present. I expressed confidence that, if we persist in building defensive strength and unity in Western Europe, it will actually promote peace.

To illustrate the third danger of being provoked into rash and divisive action, I referred to the provocation to which the United States is now being subjected by Communist China and the patience being demonstrated by our country under the direction of President Eisenhower.

I took occasion to thank the NATO nations which were members of the United Nations for their support of the recent United Nations resolution condemning the Chinese Communists and calling for the liberation of our wrongfully imprisoned airmen.[3]

The second item of the agenda to which I would allude is that which reports the approval of a report by the Military Committee which defined the most effective pattern of NATO military defensive strength for the next few years, taking into account modern developments and [in] weapons and techniques.

This report, which assumes a unity that includes Western Germany, shows for the first time the means of developing a forward strategy which could be relied on to protect Western Europe from invasion. As that capability is developed, it will surely constitute the strongest deterrent against military aggression. Furthermore, it will assure that, if unhappily aggression should be attempted, it would not succeed and that the aggressor would be thrown back at the threshold. Thus we see the means of achieving what the people of Western Europe have long sought—that is, a form of security which, while having as its first objective the preservation of peace, would also be adequate for defense and which would not put Western Europe in a position of having to be liberated.

The Council action made it clear that, in approving the report, it did so for the purposes of planning and preparation and that this did not involve a delegation to the military in a field which is properly the responsibility of governments with respect to putting plans into action in the event of hostilities. The situation is thus normal in this respect. In this country, as in the other NATO countries, it is the civil authorities of government and not the military who make the grave decisions. That, of course, will be the situation as regards the North Atlantic Treaty Organization.

The Council meeting showed a spirit of fellowship and a spirit of optimism which grew out of the prospect that the Western European unity planned by the recent London and Paris accords[1] would shortly become an accomplished fact and thus both strengthen NATO and assure that it will effectively serve its purpose in deterring aggression and preserving peace.

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[1] Treaty of Sept. 8, 1951; *supra*, pp. 425–440.

[2] Instrument of surrender, Sept. 2, 1945; *A Decade of American Foreign Policy*, pp. 625–626.

[3] Res. 906 (IX), Dec. 10, 1954; *infra*, pp. 2711–2712.

57. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, May 11, 1955[2]

The North Atlantic Council, under the chairmanship of Mr. Stephanos Stephanopoulos, Foreign Minister of Greece, met in Ministerial Session in Paris on May 9th, 10th and 11th, 1955.

I

To welcome the accession of the Federal Republic of Germany to the North Atlantic Treaty, the Council held an opening public session. In speeches made on that occasion, the texts of which have already been made public, Ministers stressed the significance they attach to the entry of the Federal Republic as a democratic and sovereign state into the North Atlantic Community.[3] The Federal Chancellor, replying to the welcome extended him by his colleagues, emphasised the full harmony existing between the objectives of the North Atlantic Treaty and the ardent desire for peace, security and freedom felt by the German people including the eighteen million in East Germany.

II

The Council reaffirmed the purely defensive character of the Atlantic Alliance. It recorded its deep satisfaction at the entry into force of the agreements which establish Western European Union and which promote peace and provide specific safeguards, including the control of armaments.[4] The Council also noted the valuable mutual support made possible by close collaboration between NATO and Western European Union in their respective fields of activity.

The Council welcomed the declarations made by the Ministers of member governments signatory to the Italian Peace Treaty[5] recalling the active part taken by Italy in the progress of Atlantic and European cooperation, and reaffirming that various discriminatory aspects of that Treaty were considered to be inconsistent with the position of Italy as an ally.

III

The Ministers examined major aspects of the international situation within and beyond the NATO area.

They discussed a report on the current negotiations regarding the Austrian State Treaty, and welcomed the indications that the Soviet

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[1] See *supra*, pp. 483–612, 972–989, and 1474–1491.

[2] Department of State *Bulletin*, May 23, 1955, pp. 831–832.

[3] For the full text of Secretary Dulles' statement of May 9, 1955, see *ibid.*, p. 831.

[4] *Supra*, pp. 972–989; these agreements entered into force May 6, 1955.

[5] Treaty of Feb. 10, 1947; TIAS 1648 (61 Stat., pt. 2, p. 1245).

Union may now join in concluding such a Treaty long sought by the Western Powers.[1]

They were resolved to continue the policies followed heretofore in building and maintaining the strength and unity of the West.

The Council welcomed the initiative of France, the United Kingdom and the United States in proposing to the Soviet Union negotiations to find means for resolving outstanding issues.[2] The Council hoped that this initiative would lead progressively to agreements which would remove sources of conflict and contribute to the security and liberty of all peoples. In particular, the Council hoped that such negotiations might help to bring about the peaceful unification of Germany in freedom, and promote progress toward reduction, under effective safeguards, of armaments and armed forces. The Council emphasized that this process of negotiation required careful preparation, and must be pursued with patience and determination.

The Council also reviewed the situation in the Middle East and Far East.

The Council received reports on the conclusion of various security pacts in these areas, including the Manila Pact [3] and the Turco-Iraqi Pact.[4] The Council welcomed measures taken to strengthen the defence of the Middle East and Far East areas.

A report was made to the Council on the Bandung Conference.[5] The Council expressed the hope that there would be a cessation of hostilities in the Far East and no further resort to force, since this would so clearly endanger the peace of the world.

IV

Ministers expressed their satisfaction that the procedures followed in the Council had enabled them to have frank and free discussions and a thorough exchange of views. These discussions constitute a most significant proof of the solidarity of the Alliance and show the great value of the Council as a forum for political consultation on matters of common concern. They are resolved to continue to follow these procedures, which enable the member governments to develop their policies on common principles.

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58. MINISTERIAL SESSION OF THE NORTH ATLANTIC COUNCIL (PARIS): Communiqué, December 16, 1955 [6]

The North Atlantic Council held its regular December Ministerial Session in Paris on the 15th and 16th of December. Member governments were represented by Foreign, Defence and Finance Ministers.

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[1] This treaty was signed May 15, 1955 (*supra*, pp. 643–676); see also *infra*, pp. 1884–1885.

[2] See tripartite note of May 10, 1955; *infra*, pp. 1886–1887.

[3] Treaty of Sept. 8, 1954; *supra*, pp. 912–915.

[4] Treaty of Feb. 24, 1955; *supra*, pp. 1257–1259.

[5] For the text of the communiqué of Apr. 24, 1955, on the conference of Asian and African countries at Bandung, see *infra*, pp. 2344–2352.

[6] Department of State *Bulletin*, Dec. 26, 1955, pp. 1047–1048; see also Secretary Dulles' statement of Dec. 13, 1955 (*ibid.*, p. 1048).

Dr. Kristinn Gudmundsson, Foreign Minister of Iceland, acted as chairman.

I. The Council examined and assessed the present international situation.

It unanimously welcomed the vigour with which the three Western Ministers had presented to the second Geneva Conference the proposals already outlined at previous meetings of the North Atlantic Council. These proposals aimed at the reunification of Germany through free elections; left the unified German Government free to choose its own foreign policy; and offered a security pact to the Union of Soviet Socialist Republics.[1]

The Council noted with regret:

1. that the U.S.S.R. had repudiated the proposal to negotiate on the reunification of Germany through free elections, in spite of the directive agreed at the first Geneva conference.[2]
2. that the U.S.S.R. was opposed to any effective system for the control of armaments including the air inspection plan proposed by President Eisenhower.[3]
3. that the U.S.S.R. had given proof of its fear and hostility with regard to the free exchange of information between the people of the Soviet Union and the free world.[4]

The Council declared that the negative outcome of the Geneva Conference had in no way halted the efforts of the North Atlantic powers to secure the reunification of Germany in freedom, such reunification continuing to be held by them as an essential condition for the establishment of a just and lasting peace.

The Council reaffirmed that they consider the Government of the Federal Republic as the only German Government freely and legitimately constituted and therefore entitled to speak for Germany as the representative of the German people in international affairs; it stressed once again that the security and welfare of Berlin should be considered as essential elements of the peace of the free world in the present international situation; it urged the importance of consulting further within NATO on the question of German reunification and on the situation in Berlin.

The Council also reviewed recent provocative moves and declarations by the Soviet Union regarding the Middle East and Asia. They recognised that these tactics, coupled with a continued increase in Soviet military capability, created new problems and a new challenge to the Free World.

II. Following a report by the Secretary General on the work and activities of the Organization in the last eight months, the Council discussed future defence planning of NATO. It considered the Annual Review Report for 1955 and approved force goals for 1956, 1957 and 1958. The Council welcomed the German Federal

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[1] See the tripartite proposals of Oct. 27, 1955 (*infra*, pp. 1897–1903) and Nov. 4, 1955 (*infra*, pp. 1921–1922).

[2] Quadripartite directive of July 23, 1955; *infra*, pp. 1896–1897.

[3] See the President's statement of July 21, 1955; *infra*, pp. 2841–2843.

[4] See *infra*, pp. 2012–2013 and 2018–2035.

Republic's participation for the first time in the NATO Annual Review. The Council adopted procedures designed to give new impulse and direction to the future defence planning of the Alliance and to ensure even closer co-operation in this field. The Council expressed the firm determination of all member governments to see the Atlantic forces equipped with the most modern weapons. The Council noted with satisfaction that substantial progress could be achieved in this respect as a result of the valuable assistance of the United States, the United Kingdom and Canada.

The Council devoted major attention to improving the arrangements for air defence and warning in Europe. It accepted recommendations for the re-organization and closer co-ordination of the air defence in NATO European countries, so as to integrate further NATO activities in this vital field. The Council also received a report on a new type of communications system for air defence and warning. The United States offered to finance a pilot project for this new system.

III. The Council recognised that recent developments in the international situation made it more necessary than ever to have closer co-operation between the members of the Alliance as envisaged in Article 2 of the Treaty. They decided to instruct the Permanent Council[1] to examine and implement all measures conducive to this end.

IV. In concluding its work, the Council declared that the North Atlantic Treaty Organization remains the essential foundation of the security of the fifteen associated nations. Such associations are in direct contrast to the obsolete system under which isolated nations are in danger of being subjugated, one by one, by despotic groups such as the Communist bloc.

C. RELATIONS WITH CERTAIN COUNTRIES

Belgium

59. COMMUNIQUÉ REGARDING CONVERSATIONS BETWEEN THE SECRETARY OF STATE AND THE BELGIAN FOREIGN MINISTER, MARCH 17, 1953[2]

The Belgian Minister of Foreign Affairs, Paul Van Zeeland, and Secretary of State John Foster Dulles have had a very cordial exchange of views, March 16 and 17, regarding the several questions of common interest to their two Governments. This was a continuation of the talks which they had when the Secretary of State was in Brussels in February.[1]

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[1] i.e., the Council Deputies; see *supra*, pp. 1609–1612.

[2] Department of State *Bulletin*, Mar. 30, 1953, p. 473. See also Ambassador Murphy's statement of Apr. 6, 1952; *ibid.*, Apr. 21, 1952, pp. 616–617.

During the course of their conversations they reviewed among other questions, the following:

1. The developments in the common defense action within the North Atlantic Treaty Organization.
2. The progress in connection with European military, political, and economic integration.
3. The economic and financial problems of interest to the two countries.

The position of Belgium within the North Atlantic Treaty Organization as well as the steps which Belgium has taken to date to achieve ratification and to further the establishment of the European Defense Community have been accorded the special attention of Mr. Van Zeeland and Mr. Dulles. They have recognized the importance of an early ratification of the European Defense Community Treaty [2] which, although of European inspiration, is of great interest to the United States.

Denmark

60. DEFENSE OF GREENLAND: Agreement Between the United States and the Kingdom of Denmark, April 27, 1951 [3]

Preamble.

The Government of the United States of America and the Government of the Kingdom of Denmark, being parties to the North Atlantic Treaty signed at Washington on April 4, 1949[4] having regard to their responsibilities thereunder for the defense of the North Atlantic Treaty area, desiring to contribute to such defense and thereby to their own defense in accordance with the principles of self-help and mutual aid, and having been requested by the North Atlantic Treaty Organization (NATO) to negotiate arrangements under which armed forces of the parties to the North Atlantic Treaty Organization may make use of facilities in Greenland in defense of Greenland and the rest of the North Atlantic Treaty area, have entered into an Agreement for the benefit of the North Atlantic Treaty Organization in terms as set forth below:

Article I.

The Government of the United States of America and the Government of the Kingdom of Denmark, in order to promote stability and well-being in the North Atlantic Treaty area by uniting their efforts for collective defense and for the preservation of peace and security and for the development of their collective capacity to resist armed attack, will each take such measures as are necessary or appropriate to carry out expeditiously their respective and joint responsibilities in Greenland, in accordance with NATO plans.

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[1] See *supra,* pp. 1441–1445.

[2] Treaty of May 27, 1952; *supra,* pp. 1107–1150.

[3] TIAS 2292; 2 UST 1485.

[4] *Supra,* pp. 812–815.

Article II.

In order that the Government of the United States of America as a party to the North Atlantic Treaty may assist the Government of the Kingdom of Denmark by establishing and/or operating such defense areas as the two Governments, on the basis of NATO defense plans, may from time to time agree to be necessary for the development of the defense of Greenland and the rest of the North Atlantic Treaty area, and which the Government of the Kingdom of Denmark is unable to establish and operate singlehanded, the two Governments in respect of the defense areas thus selected, agree to the following:

(1) The national flags of both countries shall fly over the defense areas.

(2) Division of responsibility for the operation and maintenance of the defense areas shall be determined from time to time by agreement between the two Governments in each case.

(3) In cases where it is agreed that responsibility for the operation and maintenance of any defense area shall fall to the Government of the United States of America, the following provisions shall apply:

(a) The Danish Commander-in-Chief of Greenland may attach Danish military personnel to the staff of the commanding officer of such defense area, under the command of an officer with whom the United States commanding officer shall consult on all important local matters affecting Danish interests.

(b) Without prejudice to the sovereignty of the Kingdom of Denmark over such defense area and the natural right of the competent Danish authorities to free movement everywhere in Greenland, the Government of the United States of America, without compensation to the Government of the Kingdom of Denmark, shall be entitled within such defense area and the air spaces and waters adjacent thereto:

(i) to improve and generally to fit the area for military use;
(ii) to construct, install, maintain, and operate facilities and equipment, including meteorological and communications facilities and equipment, and to store supplies;
(iii) to station and house personnel and to provide for their health, recreation and welfare;
(iv) to provide for the protection and internal security of the area;
(v) to establish and maintain postal facilities and commissary stores;
(vi) to control landings, takeoffs, anchorages, moorings, move-

ments, and operation of ships, aircraft, and water-borne craft and vehicles, with due respect for the responsibilities of the Government of the Kingdom of Denmark in regard to shipping and aviation;

(vii) to improve and deepen harbors, channels, entrances, and anchorages.

(c) The Government of the Kingdom of Denmark reserves the right to use such defense area in cooperation with the Government of the United States of America for the defense of Greenland and the rest of the North Atlantic Treaty area, and to construct such facilities and undertake such activities therein as will not impede the activities of the Government of the United States of America in such area.

(4) In cases where it is agreed that responsibility for the operation and maintenance of any defense area shall fall to the Government of the Kingdom of Denmark, the following provisions shall apply:

(a) The Government of the United States of America may attach United States military personnel to the staff of the commanding officer of such defense area, under the command of an officer with whom the Danish commanding officer shall consult on all important local matters affecting United States interests pursuant to the North Atlantic Treaty.

(b) The Government of the United States of America, without compensation to the Government of the Kingdom of Denmark, may use such defense area in cooperation with the Government of the Kingdom of Denmark for the defense of Greenland and the rest of the North Atlantic Treaty area, and may construct such facilities and undertake such activities therein as will not impede the activities of the Government of the Kingdom of Denmark in such area.

Article III.

(1) The operation of the United States naval station at Grønnedal will be transferred to the Government of the Kingdom of Denmark as soon as practicable and thereupon the Government of the Kingdom of Denmark will take over the utilization of the United States installations at Grønnedal on the following terms:

(a) United States ships, aircraft and armed forces shall have free access to Grønnedal with a view to the defense of Greenland and the rest of the North Atlantic Treaty area. The same right of access shall be accorded to the ships, aircraft and armed forces of other Governments parties to the North Atlantic Treaty as may be required in fulfillment of NATO plans.

(b) The Government of the Kingdom of Denmark will assume responsibility for the operation, to the same extent as hitherto, of the meteorological reporting service at Grønnedal, except for such future changes as might be mutually agreed upon. The Government of the Kingdom of Denmark likewise will assume responsibility for the maintenance of all United States buildings and equipment at Grønnedal.

(c) Details regarding the use by the Government of the Kingdom of Denmark of United States property remaining at Grønnedal, including provisions for reasonable protection thereof, the servicing of United States ships and aircraft, and the disposition of fuels and other stores, will be the subject of separate negotiations between representatives of the two Governments. It is agreed in this connection that, provided notification is given in each case to the Danish Commander-in-Chief of Greenland, the Government of the Kingdom of Denmark will have no objection to inspections of United States property remaining at Grønnedal, so long as that station is used by the Government of the Kingdom of Denmark.

(2) If the obligations of either party under the North Atlantic Treaty should necessitate activities at Grønnedal in excess of what the Government of the Kingdom of Denmark is able to accomplish alone, it is agreed that the Government of the Kingdom of Denmark will request that this station shall become a defense area according to the provisions of Article II of this Agreement.

Article IV.

In connection with activities for the defense of Greenland and the rest of the North Atlantic Treaty area, the defense areas will, so far as practicable, be made available to vessels and aircraft belonging to other Governments parties to the North Atlantic Treaty and to the armed forces of such Governments.

Article V.

(1) Under such conditions as may be agreed upon, the Government of the Kingdom of Denmark will, so far as practicable, provide such meteorological and communications services in Greenland as may be required to facilitate operations under this Agreement.

(2) The Government of the Kingdom of Denmark agrees, so far as practicable, to make and furnish to the Government of the United States of America topographic, hydrographic, coast and geodetic surveys and aerial photographs, etc. of Greenland as may be desirable to facilitate operations under this Agreement. If the Government of the Kingdom of Denmark should be unable to furnish the required data, the Government of the United States of America, upon agreement with the appropriate Danish authorities, may make such surveys or photographs. Copies of any such surveys or photographs made by the Government of the United States of America shall be furnished to the Government of the Kingdom of Denmark. The Government of the United States of America may also, upon similar agreement, make such technical and engineering surveys as may be necessary in the selection of defense areas.

(3) In keeping with the provisions of Article VI of this Agreement, and in accordance with general rules mutually agreed upon and issued by the appropriate Danish authority in Greenland, the Government of the United States of America may enjoy, for its public vessels and aircraft and its armed forces and vehicles, the right of

free access to and movement between the defense areas through Greenland, including territorial waters, by land, air and sea. This right shall include freedom from compulsory pilotage and from light or harbor dues. United States aircraft may fly over and land in any territory in Greenland, including the territorial waters thereof, without restriction except as mutually agreed upon.

Article VI.

The Government of the United States of America agrees to cooperate to the fullest degree with the Government of the Kingdom of Denmark and its authorities in Greenland in carrying out operations under this Agreement. Due respect will be given by the Government of the United States of America and by United States nationals in Greenland to all the laws, regulations and customs pertaining to the local population and the internal administration of Greenland, and every effort will be made to avoid any contact between United States personnel and the local population which the Danish authorities do not consider desirable for the conduct of operations under this Agreement.

Article VII.

(1) All materials, equipment, and supplies required in connection with operations under this Agreement, including food, stores, clothing, and other goods intended for use or consumption by members of United States armed forces and civilians employed by or under a contract with the Government of the United States of America for the performance of work in Greenland in connection with operations under this Agreement, and members of their families, and the personal and household effects of such military and civilian personnel, shall be permitted entry into Greenland free of inspection, customs duties, excise taxes or other charges; and no export tax shall be charged on such materials, equipment, supplies or effects in the event of shipment from Greenland.

(2) The aforesaid military and civilian personnel, and members of their families, shall be exempt from all forms of taxation, assessments or other levies by the Government of the Kingdom of Denmark or by the Danish authorities in Greenland. No national of the United States of America or corporation organized under the laws of the United States of America shall be liable to pay income tax to the Government of the Kingdom of Denmark or to the Danish authorities in Greenland in respect of any profits derived under a contract made with the Government of the United States of America in connection with operations under this Agreement or any tax in respect of any service or work for the Government of the United States of America in connection with operations under this Agreement.

Article VIII.

The Government of the United States of America shall have the right to exercise exclusive jurisdiction over those defense areas in

Greenland for which it is responsible under Article II (3), and over any offenses which may be committed in Greenland by the aforesaid military or civilian personnel or by members of their families, as well as over other persons within such defense areas except Danish nationals, it being understood, however, that the Government of the United States of America may turn over to the Danish authorities in Greenland for trial any person committing an offense within such defense areas.

Article IX.

The laws of the Kingdom of Denmark shall not operate to prevent the admission to or departure from the defense areas or other localities in Greenland of any military or civilian personnel whose presence in such defense areas or other localities in Greenland is required in connection with operations under this Agreement, or of members of their families.

Article X.

Upon the coming into force of a NATO agreement to which the two Governments are parties pertaining to the subjects involved in Articles VII, VIII and IX of this Agreement, the provisions of the said articles will be superseded by the terms of such agreement to the extent that they are incompatible therewith. If it should appear that any of the provisions of such NATO agreement may be inappropriate to the conditions in Greenland, the two Governments will consult with a view to making mutually acceptable adjustments.

Article XI.

All property provided by the Government of the United States of America and located in Greenland shall remain the property of the Government of the United States of America. All removable improvements and facilities erected or constructed by the Government of the United States of America in Greenland and all equipment, material, supplies and goods brought into Greenland by the Government of the United States of America may be removed from Greenland free of any restriction, or disposed of in Greenland by the Government of the United States of America after consultation with the Danish authorities, at any time before the termination of this Agreement or within a reasonable time thereafter. It is understood that any areas or facilities made available to the Government of the United States of America under this Agreement need not be left in the condition in which they were at the time they were thus made available.

Article XII.

Upon the coming into force of this Agreement, the Agreement Relating to the Defense of Greenland between the two Governments signed in Washington on April 9, 1941,[1] shall cease to be in force.

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[1] Executive Agreement Series 204; 55 Stat. 1245.

Article XIII.

(1) Nothing in this Agreement is to be interpreted as affecting command relationships.

(2) Questions of interpretation which may arise in the application of this Agreement shall be submitted to the Minister for Foreign Affairs of the Kingdom of Denmark and to the United States Ambassador to Denmark.

(3) The two Governments agree to give sympathetic consideration to any representations which either may make after this Agreement has been in force a reasonable time, proposing a review of this Agreement to determine whether modifications in the light of experience or amended NATO plans are necessary or desirable. Any such modifications shall be by mutual consent.

Article XIV.

(1) This Agreement shall be subject to parliamentary approval in Denmark. It shall come into force on the day on which notice of such parliamentary approval is given to the Government of the United States of America.[1]

(2) This Agreement, being in implementation of the North Atlantic Treaty, shall remain in effect for the duration of the North Atlantic reaty.

Signed in Copenhagen in duplicate in the English and Danish anguages, both texts being equally authentic, this twenty-seventh day of April, 1951, by the undersigned duly authorized representatives of the Government of the United States of America and the Government of the Kingdom of Denmark.

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SUSPENSION OF DEFENSE SUPPORT AID: Summary of Statement by the Director for Mutual Security, June 11, 1953][2]

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[1] June 8, 1951.

[2] Department of State *Bulletin*, June 22, 1953, p. 873. See also Ambassador Anderson's address of Oct. 16, 1951; *ibid.*, Oct. 29, 1951, pp. 696–700. Defense-support aid had been extended to Denmark under the agreements of June 29, 1948 (TIAS 1782; 62 Stat., pt. 2, 2199), Nov. 18, 1948 (TIAS 1904; 62 Stat., pt. 3, 3753), Feb. 7, 1950 (TIAS 2022; 1 UST 148), Feb. 9, 1951 (TIAS 2218; 2 UST 647), and Nov. 24, 1952 (TIAS 2713; 3 UST 5181). The suspension of aid was proposed by the Danish Government.

France

61. MILITARY AID TO FRANCE AND INDOCHINA: Statement by the Department of State Regarding Franco-American Conversations, October 17, 1950 [1]

In the course of conversations which have taken place during the last few days between Dean G. Acheson, Secretary of State; John W. Snyder, Secretary of the Treasury; George C. Marshall, Secretary of Defense; and William C. Foster, Economic Cooperation Administrator, on behalf of the United States, and Jules Moch, Minister of Defense, and Maurice Petsche, Minister of Finance, on behalf of France, a review has been made of the United States contribution to the implementation of the French rearmament program within the framework of the North Atlantic Treaty Organization. This review has included the question of additional United States military aid to Indochina.

The United States Government has expressed the view that a military effort of the general magnitude and character planned by the French Government would be a vital contribution to the defensive strength of the North Atlantic area. Out of the sums appropriated by the United States Congress under the Mutual Defense Assistance Act, for fiscal years 1950 and 1951,[2] about 5 billion dollars have been earmarked for military equipment to be delivered to the European members of the North Atlantic Treaty Organization. France has been assigned by far the largest single part of these amounts.

In addition, the United States Congress has appropriated for military assistance in the Far East approximately one-half billion dollars. In view of the importance of the operations in Indochina, the major part of this sum is being used to provide military equipment, including light bombers, for the armed forces both of France and of the Associated States of Indochina.

This assistance will provide a very important part of the equipment required by the forces contemplated for activation in 1951 in France and for current operations in Indochina. Deliveries of equipment are being expedited and, with respect to Indochina, a particularly high priority has been assigned.

Moreover, the following agreement has been reached during the talks with respect to production assistance:

(a) On an interim basis, and within the funds already appropriated under the Mutual Defense Assistance Act by the Congress for the fiscal year 1951, the Government of the United States will make available in support of the French Government's increased military production program assistance in the amount of 200 million dollars, these funds to be obligated prior to June 30, 1951.

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[1] Department of State *Bulletin*, Oct. 30, 1950, p. 704.

[2] Acts of Oct. 6, 1949 (*A Decade of American Foreign Policy*, pp. 1356–1364) and July 26, 1950 (64 Stat. 373).

French defense effort will, subject to future provision of funds by the Congress, be determined on the basis of multilateral discussions within the framework of the North Atlantic Treaty Organization directed toward an equitable distribution among all the North Atlantic Treaty embers of the economic burdens of the common rearmament effort.

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62. FRANCO-AMERICAN VIEWS: Communiqué by the President of the United States and the Premier of France,[1] January 30, 1951 (Excerpts)[2]

The President and the Prime Minister exchanged views on the road subject of international affairs and they touched upon all the uestions that are of common interest to France and the United States. Once again they found that there exists a fundamental dentity of views between the two countries.

The President and the Prime Minister reaffirmed their belief that he principle of collective security, embodied in the Charter of the nited Nations, is the chief bulwark of world peace and of the independence and survival of free societies in the world. They agreed hat, in conformity with this principle, aggression must not be rearded or the menace of aggression appeased. It is in this spirit that he President and the Prime Minister examined the means to assure oordinated action and turned to the more detailed questions as set rth below.

The President and the Prime Minister found themselves in complete greement as to the necessity of resisting aggression and assisting the ree nations of the Far East in their efforts to maintain their security nd assure their independence.

The situation in Korea was discussed and they concurred that every ffort must be exerted to bring about an honorable solution there. ntil that end can be accomplished, resistance by United Nations orces to aggression must continue. Both France and the United States will support action directed toward deterring aggression and oward preventing the spread of hostilities beyond Korea.

With regard to Indochina, the Prime Minister described the heavy esponsibilities borne by France in that area and the great cost, oth in lives and money, she has paid in resisting the Communist nslaught in order to maintain the security and independence of the ssociated States, Vietnam, Cambodia and Laos. The Prime Minister declared that France was determined to do its utmost to ontinue this effort. The President informed the Prime Minister hat United States aid for the French Union forces and for the National Armies of the Associated States will continue, and that the increased quantities of material to be delivered under the program authorized for the current fiscal year will be expedited.

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[1] M. René Pleven.

[2] Department of State *Bulletin*, Feb. 12, 1951, pp. 243–244. The White House lso released a list of the American and French advisers who participated in the eetings.

The President and the Prime Minister agreed that continuous contact should be maintained between the interested nations on these problems.

The President and the Prime Minister both recognized the vital importance of Europe to the defense of the entire free world. The Prime Minister described the French efforts to achieve European unity. He stressed in this regard the French desire to see disappear the divisions and rivalries that oppose a harmonious development of the European economy and the establishment of a strongly organized Europe. The Prime Minister stated that the policy of the French Government was to favor the creation of a broad European market open to competition by all through the abolition of cartels and discriminatory practices.

The President and the Prime Minister were in fundamental agreement that the cause of peace in Europe and the world would be furthered by a progressively closer integration in every aspect of a democratic Germany into a vigorous Western European community.

The Prime Minister brought the President up-to-date on the recent developments relating to the Schuman Plan treaty.[1] He expressed appreciation for the interest and the comprehension which this plan found in the United States. The President hoped that the treaty would be concluded in satisfactory form at the earliest possible moment. The Prime Minister also mentioned that new steps are anticipated in the same direction, particularly in the field of agriculture.

The Prime Minister also referred to the conference to be convened in Paris on February 6th,[2] to consider the formation of a European Army based on European political institutions and within the framework of the North Atlantic Treaty Organization. The President welcomed the conference and expressed his hope for its success. He informed the Prime Minister that the United States would be glad to accept the invitation to send an observer, and that Ambassador David Bruce would be designated.

The President and the Prime Minister exchanged views with regard to the progress made by both countries in their defense programs. The President described to the Prime Minister the great efforts now being made by the United States. Mr. Pleven outlined the steps taken by France in this field and added that the French Government would neglect no opportunity to intensify its rearmament and particularly to accelerate as much as possible the execution of existing programs.

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[1] Treaty of Apr. 18, 1951, *supra*, pp. 1039–1078.

[2] See the French memorandum on the Pleven Plan submitted at the opening session of the conference in Paris of the European members of NATO (plus the German Federal Republic), Feb. 15, 1951; *Documents on International Affairs, 1951* (London, 1954), pp. 216–219.

The President and the Prime Minister reaffirmed their conviction that German participation in the common defense effort as envisaged last month at Brussels[1] would strengthen the security of Europe without altering in any way the purely defensive character of the North Atlantic Treaty Organization.

The President and the Prime Minister also reviewed certain questions concerning United States assistance to France in the economic field. They clarified procedures so that United States assistance will make its most effective contribution to the French defense effort.

They agreed that the solution of the raw materials problems ought to be the aim, not only of national action, but also of international action undertaken with the utmost speed and vigor. The objectives of such action are to give the necessary priority to defense requirements and to meet essential civilian needs through the stimulation of production, the equitable distribution of available supplies, the avoidance of waste in nonessential uses and of unnecessary accumulation of stocks. The two Governments, together with that of the United Kingdom, are presently proposing the formation of international commodity groups which will take up immediate problems of material shortages of common concern to the countries of the free world.

They recognized the importance of dealing with the problem of inflation and rising prices, which adversely affect the common defense effort. They agreed that not only should vigorous national action be taken but that wherever international measures may effectively contribute to this objective they would give their full support.

. . . .

The President and the Prime Minister wish to state that the supreme objective of the foreign policies of the United States and France is the establishment and maintenance of durable peace based on law and justice.

The measures which they have discussed and undertaken in common with other free nations for the development of adequate defense under the North Atlantic Treaty and for the development of European unity are directed solely to that end.

Moreover, the two Governments have never neglected in the past and will never neglect in the future any genuine opportunity to settle international problems by negotiation.

The discussions between the President and the Prime Minister have shown again that no menace or maneuver will succeed in shaking the fundamental unity which exists between the United States and France.

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[1] See communiqué of Dec. 19, 1950; *supra*, pp. 1608–1609.

63. STATE VISIT OF THE PRESIDENT OF THE FRENCH REPUBLIC: Communiqué Regarding Conversations Between the President of the United States and the President of the French Republic,[1] March 29, 1951 [2]

The President of the French Republic outlined to the President of the United States conditions in France, the progress of the French rearmament program and the present situation in Indochina where French forces and the forces of the Associated States (of Indochina) are successfully opposing Communist aggression.

The remarks of the President of the French Republic included a statement that the French people were determined to defend themselves against foreign aggression and that, in this spirit, they are giving all out support to the North Atlantic Treaty Organization. He emphasized that all these efforts were directed toward the maintenance and strengthening of peace.

The President of the United States stated that he was encouraged by President Auriol's remarks and expressed his confidence that peace could and would be maintained and that the democratic peoples would preserve unshakable unity in pursuit of their great objective; peace for all the world.

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64. REVIEW OF FRENCH AND AMERICAN POLICIES: Communiqué Regarding Franco-American Discussions, March 28, 1953 [3]

1. Representatives of the United States and France, meeting in Washington, today concluded a detailed review of a wide range of problems which face both governments in Europe, the Far East and the Near East. Peace will always remain the basic policy of the United States and France. The discussions, therefore, centered on measures for obtaining peace where there is fighting and for consolidating peace where threats exist.

2. It was agreed, in the absence of any tangible proof to the contrary, that recent developments in the Soviet Union had not changed the basic nature of the threat confronting the free world. The representatives of both countries were in full agreement on the necessity of concerting their efforts so as to defeat Communist aggression in the Far East and to strengthen the defenses of the free countries in the West. They remain convinced that true peace can be achieved and maintained only by constructive efforts of all free nations.

3. It was recognized that Communist aggressive moves in the Far East obviously are parts of the same pattern. Therefore, while the full burden of the fighting in Indochina falls on the forces of the French Union including those of the Associated States, and similarly the United States bears the heaviest burden in Korea, the prosecution

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[1] M. Vincent Auriol.

[2] Department of State *Bulletin*, Apr. 9, 1951, p. 563.

[3] *Ibid*, Apr. 6, 1953, pp. 491–492.

of these operations cannot be successfully carried out without full recognition of their interdependence. This in turn requires the continuation of frequent diplomatic and military consultation between the two Governments.

The French Government reasserted its resolve to do its utmost to increase the effectiveness of the French and Associated States forces in Indochina, with a view to destroying the organized Communist forces and to bringing peace and prosperity to her free associates within the French Union, Cambodia, Laos and Viet-Nam. The Ambassadors of Viet-Nam and Cambodia were present and participated in this phase of the discussions.

Advantage was taken of this meeting to continue discussion of plans prepared by the High Command in Indochina for military action there. These plans are being developed with a view to achieving success in Indochina and are being given intensive study so as to determine how and to what extent the United States may be able to contribute matériel and financial support to their achievement.

Obviously any armistice which might be concluded in Korea by the United Nations would be entered into in the hope that it would be a step toward peace. It was the view of both Governments, however, that should the Chinese Communist regime take advantage of such an armistice to pursue aggressive war elsewhere in the Far East, such action would have the most serious consequences for the efforts to bring about peace in the world and would conflict directly with the understanding on which any armistice in Korea would rest.

4. The two Governments reaffirmed their common interest in controlling together with other nations of the free world the movement of strategic materials to nations whose policies jeopardize the peace and security of the free world. Both Governments undertook to continue action toward that end.

In order to render more effective the application of the United Nations General Assembly resolution of May 18, 1951,[1] the French Government intends to take the measures necessary to prevent

a) the bunkering of ships carrying to Communist China cargoes of strategic materials, and
b) the transportation by French ships of cargoes of strategic character to ports of Communist China.

The two Governments in cooperation with other interested Governments will keep under constant review the list of items embargoed to Communist China in order to include goods whose strategic character will have been demonstrated.

5. In their discussions on the European area, the two Governments recognized the continuing urgent need to permit a German military contribution to the defense of Europe and through the Contractual Agreements[2] replace the present occupation regime of Germany. Both Governments agreed on the necessity of the establishment,

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[1] Res. 500 (V); *infra*, pp. 2614–2615.

[2] See the convention of May 26, 1952 and related documents; S. Execs. Q and R. 82d Cong. 2d sess., pp. 9–22, 25–166.

with minimum delay, of the European Defense Community, which will promote sincere cooperation between France and Germany and thus serve the interests of the Atlantic Community as well as advance the security and unity of Europe.

The two delegations noted with satisfaction the agreement by the Interim Committee of the European Defense Community on the protocols interpretative to the Treaty.[1] For their part the representatives of France foresaw their acceptance by their Government.

It was recognized that this important step toward ratification of the Treaty would enable rapid progress in the Interim Committee on the technical steps preparatory to the Treaty coming into force and thereby ensure that its benefits would be secured as soon as possible after ratification.

The importance of a settlement of the question of the Saar was recognized and it was agreed that this should be sought at the earliest opportunity on a basis which would provide a European status for the Saar conforming to the principles of the European Defense and the Coal and Steel Communities. The French delegation explained in detail the reasons which, in its view, justify and render necessary a Franco-German agreement on such a settlement [2] prior to ratification of the European Defense Community Treaty.

6. The French delegation explained the economic and budgetary implications for France of carrying out her defense programs in Europe as well as in the Far East.

7. The two delegations recognized that the European Defense Community is to be constituted within a constantly developing Atlantic Community.[3]

Therefore they place great importance upon efforts to improve the effectiveness of the North Atlantic Treaty Organization.

This general question as well as that of the essential balance between military necessities and economic possibilities will again be considered during the next meeting of the North Atlantic Council in Paris on April 23.[4]

8. The participation by France in the European Community alters in no way her interests and responsibilities outside of Europe. In the light of the world position of both nations, which is reflected in particular in the charter of the United Nations, the United States Government and the Government of France will consult with one another on general problems as occasion demands in the future as in the past.

9. An exchange of views was also held on economic and financial questions.

The discussions included a survey of the budgetary position and outlook as well as a review of economic developments in the United States and in France.

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[1] See the additional protocols to the EDC Treaty proposed by the French Government and accepted by the Interim Committee, Mar. 24, 1953; *Documents on International Affairs, 1953* (London, 1956), pp. 213–218.

[2] See *supra*, p. 613, footnote 1.

[3] See *supra*, pp. 1171 and 1173–1174.

[4] See *supra*, pp. 1631–1633.

The French representatives outlined their views on the recent lks at the Organization for European Economic Cooperation in ris[1] concerning progress toward better balanced and expanding orld trade, and the objective of convertibility of currencies and ultilateral trade and payments. It was agreed that steps to adance this progress would require further study by the United States, e member countries of the Organization for European Economic ooperation and other governments.

5. ASSURANCES TO FRANCE: Letter From the President of the United States to the President of the French Republic,[2] June 18, 1954[3]

MY DEAR PRESIDENT COTY: I write to assure you that in these oubled days my country remains warm in its sympathy and staunch its friendship for your country.

It is of the utmost concern to my country, and indeed to peoples verywhere, that France should continue to play her historic role as e champion of liberty, equality, and fraternity, and as a master raftsman of new and better human relationships.

The United States hopes to see realized, while the opportunity still xists, the imaginative and epochal French concept for blending ational military forces on the continent of Europe so that they will erform a single service of peace and security. I want to assure you at the pledge of support embodied in my message of April 16[4] to onsieur Laniel[5] still stands, and will continue available to his sucessor.

In Indochina our nation has long shown its deep concern by heavy nancial and material aid which continues. The proposals for a united fense which we submitted to Monsieur Laniel represented on our art a momentous and grave decision. Nothing has happened here change the attitude thus expressed, even though the lapse of time nd the events which have come to pass have, of course, created a ew situation. But I assure you that we shall be ready in the same irit to open new discussions as the forthcoming French Government[6] ay deem it opportune.

I have mentioned two aspects of our relations which imperatively emand high governmental attention. You can be sure that they will be dealt with upon the foundation of the respect and affection for France which is felt by many millions of individual American citizens. Our past associations have brought sorrows and joys which have indelibly pressed their image upon the very heart of our nations and this is, on our side, a guarantee of our future attitude.

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[1] This meeting was held Mar. 23–24, 1953; for the text of the resolutions adopted this meeting, see *Documents on International Affairs, 1953* (London, 1956), p. 239–243.

[2] M. René Coty, elected Dec. 17, 1953, for the 7-year term 1954–1960; inauguted Jan. 16, 1954.

[3] Department of State *Bulletin*, June 28, 1954, p. 990–991; see also *ibid.*, uly 5, 1954, pp. 13–14.

[4] i. e., the message of Apr. 15, 1954, from President Eisenhower to the heads government of the EDC countries; *supra*, pp. 1198–1200.

[5] M. Joseph Laniel, Premier from June 28, 1953, to June 12, 1954.

[6] The "forthcoming French Government" was the Cabinet headed by M. Pierre endès-France, appointed June 18, 1954.

I shall be talking informally with Sir Winston Churchill and Mr. Eden next week[1] and I look forward to resuming with the Government of France such intimate conversations as I have had in the past both as President and previously when I served in Europe in our common cause first of liberation from one tyranny and then of defense against another tyranny.

I extend to you, my dear Mr. President, my respectful greetings.

DWIGHT D. EISENHOWER

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66. REVIEW OF FRENCH INTERESTS AND POLICIES: Franco-American Communiqué, November 20, 1954[2]

1. Following his talk with the President of the United States [on November 18], the Prime Minister of France[3] met with the Secretary of State on Thursday, November 18, Friday, November 19, and Saturday, November 20. Officials of the two Governments were present. The conversations took place in a spirit of cooperation and mutual confidence and have brought out once again the fundamental unity of outlook of the two countries, and their unshakeable faith and determination in the cause of peace and freedom, which are shared by all other like-minded governments and by all the peoples of the world.

2. With regard to Europe, it was agreed that the early ratification of the Paris agreements[4] by all countries concerned will strengthen the unity of the Western World. It should open the way for consideration of means of improving international relations, in accordance with the spirit and the goals of the Charter of the United Nations, both Governments being ready to enter, not into improvised debates intended mainly for propaganda, but into adequately prepared negotiations, carried on in good faith.

3. The Prime Minister reviewed hopefully the prospects for establishing increasingly fruitful relations between France and Germany as a basic contribution to the creation of a united and peaceful Europe, to which the United States also attaches great importance.

4. The understandings reached with regard to Cambodia, Laos and Viet-Nam in the talks of September 27–29 between representatives of the Governments of France and the United States in Washington were reaffirmed.[5] Agreement was reached on coordinated procedures

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[1] See joint statements of June 28, 1954 (*infra*, pp. 1705–1706) and June 29, 1954 (*infra*, p. 1707).

[2] Department of State *Bulletin*, Nov. 29, 1954, p. 804.

[3] M. Pierre Mendès-France.

[4] *Supra*, pp. 483–612 and 972–989.

[5] See communiqué of Sept. 29, 1954; *infra*, pp. 2400–2401.

and periodic reviews required to carry out the policies of France and the United States in that area designed to assist the Associated States to maintain their freedom and independence.

The Chiefs of the diplomatic missions of Cambodia, Laos and Viet-Nam in Washington have been informed of the exchange of views relating to their countries.

5. The Prime Minister reviewed the recent events in North Africa which created obstacles to the policy inaugurated by the French Government.[1] He nevertheless expressed the hope that proposals already made would lead to a prompt solution. He stressed that external influences have affected the situation in North Africa and compromised the security of this region. The Secretary of State declared that he would give serious consideration to the matter.

Iceland

67. DEFENSE OF ICELAND: Agreement Between the United States and the Republic of Iceland, May 5, 1951[2]

PREAMBLE

Having regard to the fact that the people of Iceland cannot themselves adequately secure their own defenses, and whereas experience has shown that a country's lack of defenses greatly endangers its security and that of its peaceful neighbors, the North Atlantic Treaty Organization has requested, because of the unsettled state of world affairs, that the United States and Iceland in view of the collective efforts of the parties to the North Atlantic Treaty[3] to preserve peace and security in the North Atlantic Treaty area, make arrangements for the use of facilities in Iceland in defense of Iceland and thus also the North Atlantic Treaty area. In conformity with this proposal the following Agreement has been entered into.

ARTICLE I

The United States on behalf of the North Atlantic Treaty Organization and in accordance with its responsibilities under the North Atlantic Treaty will make arrangements regarding the defense of Iceland subject to the conditions set forth in this Agreement. For this purpose and in view of the defense of the North Atlantic Treaty area, Iceland will provide such facilities in Iceland as are mutually agreed to be necessary.

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[1] See Premier Mendès-France's proposals for autonomy for Tunisia, July 31, 1954; *Documents on American Foreign Relations, 1954* (New York, 1955), pp. 400–403.

[2] TIAS 2266; 2 UST 1195. An annex to this agreement was signed, May 8, 1951, regulating the status of United States personnel and property in Iceland under the defense agreement (TIAS 2295; 2 UST 1533).

[3] *Supra*, pp. 812–815.

ARTICLE II

Iceland will make all acquisitions of land and other arrangements required to permit entry upon and use of facilities in accordance with this Agreement, and the United States shall not be obliged to compensate Iceland or any national of Iceland or other person for such entry or use.

ARTICLE III

The national composition of forces, and the conditions under which they may enter upon and make use of facilities in Iceland pursuant to this Agreement, shall be determined in agreement with Iceland.

ARTICLE IV

The number of personnel to be stationed in Iceland pursuant to this Agreement shall be subject to the approval of the Icelandic Government.

ARTICLE V

The United States in carrying out its responsibilities under this Agreement shall do so in a manner that contributes to the maximum safety of the Icelandic people, keeping always in mind that Iceland has a sparse population and has been unarmed for centuries. Nothing in this Agreement shall be so construed as to impair the ultimate authority of Iceland with regard to Icelandic affairs.

ARTICLE VI

The Agreement of October 7, 1946, between the United States and Iceland for interim use of Keflavik Airport[1] shall terminate upon the coming into force of this Agreement whereupon Iceland will assume direction of and responsibility for civil aviation operations at Keflavik Airport. The United States and Iceland will negotiate appropriate arrangements concerning the organization of the Airport to coordinate the operation thereof with the defense of Iceland.

ARTICLE VII

Either Government may at any time, on notification to the other Government, request the Council of the North Atlantic Treaty Organization to review the continued necessity for the facilities and their utilization, and to make recommendations to the two Governments concerning the continuation of this Agreement. If no understanding between the two Governments is reached as a result of such request for review within a period of six months from the date of the original equest, either Government may at any time thereafter give notice its intention to terminate the Agreement, and the Agreement shall hen cease to be in force twelve months from the date of such notice. Vhenever the contingency provided for in Articles 5 and 6 of the Jorth Atlantic Treaty shall occur, the facilities, which will be afforded n accordance with this Agreement, shall be available for the same use. Vhile such facilities are not being used for military purposes, necessary naintenance work will be performed by Iceland or Iceland will thorize its performance by the United States.

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[1] TIAS 1566; 61 Stat., pt. 3, p. 2426.

ARTICLE VIII

After signature by the appropriate authorities of the United States nd Iceland, this Agreement, of which the English and Icelandic exts are equally authentic, shall come into force on the date of receipt y the Government of the United States of America of a notification rom the Government of Iceland of its ratification of the Agreement.[1]

DONE at Reykjavík, this fifth day of May, 1951.

. . . .

8. IMPLEMENTATION OF THE UNITED STATES-ICELANDIC DEFENSE AGREEMENT: Statement by the Department of State, May 26, 1954 [2]

The United States and Iceland on May 25 reached an understanding changes in the methods of implementing the U.S.-Icelandic Defense greement of May 5, 1951.[3] In response to the request of the Ice- ndic Government received last December, representatives of the Jnited States and Iceland—including an advisory team from the)epartments of State and Defense—began discussions February 2. greement was effected by an exchange of notes between the Icelandic 'oreign Minister and the American Minister to Iceland, Edward B. awson, who negotiated the original agreement of 1951.

In general the understandings reached are technical in nature. 'hey pertain chiefly to how defense construction work in Iceland and he planning, arrangement, and operation of the military areas in celand can best be effected consistent with NATO objectives of defend- ng Iceland and the North Atlantic area, while also taking into account roblems peculiar to Iceland.

The basic U.S.-Iceland Defense Agreement of May 5, 1951, was egotiated at the request of NATO in view of Iceland's lack of defenses. t has not been altered in these negotiations.

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[1] May 5, 1951.

[2] Department of State *Bulletin*, June 7, 1954, p. 884.

[3] *Supra.*

Italy

69. INTERPRETATION OF THE ITALIAN PEACE TREATY: Declaration by the Governments of the United States, the United Kingdom, and France, September 26, 1951 [1]

The Governments of the United States, France, and the United Kingdom have considered for some time how best to resolve, in the interests of the harmonious development of cooperation between the free nations, the problem presented by the peace treaty with Italy.

In accordance with the desire of the Italian people, Italy, which loyally cooperated with the Allies during the latter part of the war as a co-belligerent, has reestablished democratic institutions. In the spirit of the United Nations' Charter, Italy has invariably extended to other peaceful and democratic governments that cooperation indispensable to the solidarity of the free world.

Nevertheless, although Italy has on three occasions received the support of the majority of member states voting in the General Assembly, it is still prevented by an unjustifiable veto from obtaining membership in the United Nations in spite of the provisions of the treaty and the Charter.[2]

Moreover, Italy is still subject under the peace treaty to certain restrictions and disabilities. These restrictions no longer accord with the situation prevailing today nor with Italy's status as an active and equal member of the democratic and freedom-loving family of nations.

Each of the three governments, therefore, declares hereby its readiness to give favorable consideration to a request from the Italian Government to remove so far as concerns its individual relations with Italy, and without prejudice to the rights of third parties, those permanent restrictions and discriminations now in existence which are wholly overtaken by events or have no justification in present circumstances or affect Italy's capacity for self-defense.

Each of the three governments hereby reaffirms its determination to make every effort to secure Italy's membership in the United Nations.

The three governments trust that this declaration will meet with the wide approval of the other signatories of the peace treaty and that they will likewise be prepared to take similar action.

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[1] Department of State *Bulletin*, Oct. 8, 1951, p. 570.

[2] Italy's application for membership in the United Nations, support of which was pledged by the Allied Powers in the preamble to the Treaty of Peace with Italy, was unfavorably considered in 4 votes (prior to September 1951) in the Security Council (Aug. 21, 1947; Oct. 1, 1947; Apr. 10, 1948; and Sept. 13, 1949). Prior to September 1951, the General Assembly three times adopted resolutions recommending that the Security Council reconsider Italy's application (Nov. 17, 1947; Dec. 8, 1948; and Nov. 22, 1949).

70. POLITICAL SUPPORT AND ECONOMIC AID TO ITALY: Communiqué by the Secretary of State and the Italian Premier, September 26, 1951 [1]

The President of the United States, the Secretary of State, and the Prime Minister of Italy have met during the past 3 days and had a full exchange of views on questions of mutual interest to both countries. For the discussion of economic matters, the Acting Administrator of the Economic Cooperation Administration, Mr. [Richard M.] Bissell, and the Minister of the Italian Budget, Mr. [Giuseppe] Pella, joined the group. At the conclusion of the conversations, the Secretary of State and the Prime Minister issued the following statement:

Conversations were held in the spirit of friendship and cooperation which governs the relations between the United States and Italy. They revealed continuing agreement between the governments of the two countries on common objectives and means of achieving them.

The Secretary of State and the Prime Minister reviewed the general international situation, and agreed that both nations, jointly with the other free nations, must devote their entire energies to achieving peace with security. They agreed further on the need for positive action to bring together the peoples and governments of the Atlantic Community. The Secretary of State and the Prime Minister reviewed the steps already taken to bring about a closer association of the Western European nations, including the German Federal Republic and a European defense force, and the Prime Minister expressed to the Secretary of State Italy's determination to lend cooperation fully in these efforts.

The North Atlantic Treaty Organization as a means of regional defense under the United Nations Charter and its particular importance in closer political and economic cooperation between both Western European and Mediterranean nations were fully recognized. They also recognized that the Mediterranean area is essential to the common defense, and welcomed the steps that had been taken at the recent meeting of the North Atlantic Council at Ottawa.[2]

The Secretary of State reiterated the determination of the United States to press for Italy's admission into the United Nations in order that Italy may cooperate to the fullest extent in the maintenance of peace and the removal of causes of international tension.

The Secretary of State assured the Prime Minister that his request on behalf of the Italian people for removal of the restrictions and discriminations in the Italian peace treaty has been given most favorable consideration by the United States Government.[3] The declaration by the United Kingdom, France, and the United States on this subject has been published.[1] The Secretary of State expressed hope that all the governments signatory to the treaty would give their full concurrence to this declaration.

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[1] Department of State *Bulletin*, Oct. 8, 1951, pp. 563–564.

[2] See the North Atlantic Council's communiqué of Sept. 21, 1951; *supra*, pp. 1614–1616.

[3] For the text of the agreement subsequently effected Dec. 21, 1951, releasing Italy from certain of its obligations to the United States under the Italian Peace Treaty, see *infra*.

Regarding Trieste, both the Prime Minister and the Secretary of State agreed that a solution to this question would greatly strengthen unity of Western Europe. As stated in the conversation between the Prime Minister and the President,[2] the policies of both governments on this question are well known. The solution should take into account the legitimate aspirations of the Italian people.

The Prime Minister described the urgency of measures to assist in the full utilization of Italian manpower resources. The Secretary of State expressed complete understanding of the importance of this question and the readiness of the United States Government to cooperate in its solution. He informed the Prime Minister that the United States will cooperate with other governments having an interest in evolving practical plans for an international organization to consider and put into effect concrete plans for the solution of the related problems of Italian and European overpopulation.[3]

The economic problems common to the two countries were reviewed in detail by the representatives of the two governments. On the American side, great satisfaction was expressed at the progress made in strengthening Italy's economic and financial situation. The Prime Minister was assured that it is the intention of the United States Government to contribute as in the past, within the limits of the funds appropriated to this end by Congress, the military and economic aid necessary to support the Italian effort to develop greater economic strength, social stability, and capacity for defense of its freedom and independence.

Particular attention was given to the idle capacity existing in some sectors of Italian industry, and to the possibility of the United States Government placing orders for additional defense production which will contribute to a speedier and fuller Italian participation in the production effort of the NATO countries and which will increase the level of employment in Italy.

Assurance was given of United States help in getting priorities for the equipment necessary to increase the production of electric power and steel in Italy.

The Secretary of State and Minister Pella signed an agreement supplementing the Treaty of Friendship, Commerce and Navigation of 1948,[1] which will provide for an increased flow of investments between the two countries.

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[1] See tripartite declaration of Sept. 26, 1951; *supra.*

[2] For the communiqué of Sept. 25, 1951, on the conversations between the President and the Prime Minister, see the Department of State *Bulletin*, Oct. 8, 1951, p. 563.

[3] The international organization here referred to was established with the title of Provisional Intergovernmental Committee for the Movement of Migrants from Europe by a resolution adopted Dec. 5, 1951, at the final session of the conference on migration which convened at Brussels, Nov. 26, 1951. For the text of the resolution and a report on the conference, see *ibid,* Feb. 4, 1952, pp. 169–173.

This friendly and exhaustive exchange of views, both on political and economic matters, confirmed the determination of the two countries to further, in concert with other democratic Nations, their close cooperation in order to solve effectively the problems of welfare, security, and peace.

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71. RELEASE OF ITALY FROM CERTAIN PEACE TREATY OBLIGATIONS: Note From the Secretary of State to the Italian Ambassador,[2] December 21, 1951[3]

EXCELLENCY: I have the honor to refer to your note of December 8, 1951,[4] regarding the Preamble and certain clauses of the Italian Peace Treaty.

I am glad to inform you that, in accordance with the terms of the declaration of September 26[5] by the Governments of the United States, France, and the United Kingdom, the Government of the United States welcomes the proposals of the Italian Government.

Therefore the United States hereby agrees that the spirit reflected by the preamble no longer exists, and has been replaced by the spirit of the United Nations Charter; that the political clauses, articles 15–18, are superfluous; and that since the military clauses are not consistent with Italy's position as an equal member of the democratic and freedom-loving family of nations, Italy is released from its obligations to the United States under articles 46–70 and annexes relevant thereto.

Accept [etc.]

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72. ITALIAN–UNITED STATES POLICY REVIEW: Communiqué Regarding Italo-American Conversations, March 30, 1955[6]

The Prime Minister of Italy, the Honorable Mario Scelba, and the Minister of Foreign Affairs, the Honorable Gaetano Martino have today concluded their official visit in Washington where they have been the guests of the United States Government.

The visit provided a welcome opportunity for President Eisenhower and Prime Minister Scelba as well as for Secretary of State Dulles and Foreign Minister Martino to renew their acquaintance. It also served to emphasize the cordiality of the relations between the United States and Italy and the friendship between the two peoples. This cordiality was at all times evident in the exchange of ideas between Prime Minister Scelba and Foreign Minister Martino and President Eisenhower, Secretary of State Dulles, Secretary of Treasury Humphrey, Secretary of Defense Wilson and Governor Stassen, the Special Assistant to the President on Disarmament and Administrator of the FOA.

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[1] Treaty of Feb. 2, 1948; TIAS 1965; 63 Stat., pt. 2, p. 2255. The agreement of Sept. 25, 1951, whose text is printed in the Department of State *Bulletin*, Oct. 8, 1951, pp. 568–570, did not enter into force. Advice and consent by the Senate to its ratification was given, with an understanding, July 21, 1953; see S. Exec. Rept. 5, 83d Cong., 1st sess.

[2] Alberto Tarchiani.

[3] TIAS 2461; 3 UST 2869.

[4] *Ibid.*

[5] *Supra*, doc. 69.

[6] Department of State *Bulletin*, Apr. 11, 1955, pp. 612–613. See also statement released by the White House, Mar. 28, 1955 (*ibid.*, p. 613); Mr. Scelba's address to the Senate of Mar. 30, 1955 (*ibid.*, pp. 613–614); and Ambassador Luce's address of Mar. 23, 1955 (*ibid.*, pp. 616–622).

In the spirit that inspires the relations between the two countries and their partnership in the North Atlantic Treaty Organization, the Italian Prime Minister and Foreign Minister reviewed with the Secretary of State and other members of the United States Government various aspects of the international political situation.

They discussed, among other things, the status of East-West relations and agreed on the necessity of making every effort, together with their allies, to reach a solution of the most important international questions which affect the defense of the Free World, the strengthening of the Western Community and the maintenance of peace. The Secretary of State and the Italian Foreign Minister, confirming their belief in peaceful negotiation of international problems, expressed their hope that it will be possible soon after ratification by all the signatories of the Paris Agreements [1] is completed, to find the basis for a truly fruitful conference with the Soviet Government. To this end and in the light of the most recent developments they have agreed to keep in constant touch.

With regard to the problem of armaments, they agreed that its solution should be sought by further exploring the possibility of reaching a genuine limitation of armaments, both conventional and non-conventional, on the basis of effective international controls.

The leaders of the two governments noted with satisfaction the advanced state of the ratification of the Paris Accords and found themselves in agreement that Europe, in its own and in the general interest, should continue its efforts to achieve an ever greater economic and political unity. The Secretary of State assured the Prime Minister and the Foreign Minister that the United States welcomes continued Italian initiative in this direction along with that of other European countries.

With the Secretary of Defense matters of mutual interest concerning the defense of the Western World and the military collaboration of the two countries in NATO were discussed.

Prime Minister Scelba expressed to the President of the United States the thanks of the Italian people for the help received in various forms from 1945 to date. The President in turn expressed his appreciation of Italy's efforts in the economic field, assuring him of the continuing interest of the United States in these matters. In the course of their conversations with other United States officials particularly with the Secretary of the Treasury and the Director of FOA, the Italian Ministers reviewed the many economic aspects of Italo-

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[1] Protocols of Oct. 23, 1954; *supra*, pp. 483–612, 871–873, and 972–979.

American relations with a view to achieving closer cooperation in this field as well. The special needs of the Italian economy for capital were included in the review. In that connection the representatives of both governments noted the important role of private investment and in particular expressed their gratification at the progress in the consideration by the International Bank for Reconstruction and Development of the loan application made by Italy.

In the framework of economic cooperation between the two countries, two treaties designed to eliminate double taxation in the case of income and estate taxes were signed by the Foreign Minister and the Secretary of State.[1]

Finally, all participants in the conferences agreed to encourage cooperation between Italy and the United States in the peaceful uses of atomic energy which hold such great future promise for the welfare of the peoples of both nations. The specific developments that have resulted from current discussions between representatives of the Italian Government and the U.S. Atomic Energy Commission have been set forth in another joint communiqué today.[2]

Portugal

73. MILITARY FACILITIES IN THE AZORES: Agreement Between Portugal and the United States, September 6, 1951[3]

The Portuguese Government and the Government of the United States of America:

Having in mind the doctrine and obligations arising from Articles 3 and 5 of the North Atlantic Treaty signed in Washington April 4, 1949;[4]

Resolved, in accordance with the preamble of that Treaty, to unite their efforts for the common defense and for the preservation of peace and security;

Considering the necessity of executing in peacetime the measures of military preparation necessary to the common defense, in conformity with plans approved by the nations signatory to the referred to Treaty;

Taking into consideration that according to the provisions adopted in the North Atlantic Treaty Organization, the area of the Azores directly interests Portugal and the United States and that between them they must establish agreements for the determination and utiliza-

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[1] Treaties of Mar. 30, 1955; TIAS 3678 and 3679 (7 UST 2977 and 2999).

[2] Department of State *Bulletin*, Apr. 11, 1955, p. 615.

[3] TIAS 3087; 5 UST 2263.

[4] *Supra* pp. 812–815.

Governments to grant in those islands;

Agree as follows:

Article 1

The Portuguese Government grants to the Government of the United States in case of war in which they are involved during the life of the North Atlantic Treaty and within the framework and by virtue of the responsibilities assumed thereunder the use of facilities in the Azores which will be provided for in technical arrangements to be concluded by the Ministers of Defense of the two Governments.

Wherever reference is made in the text of this Agreement to technical arrangements, it is understood that such reference has to do with the technical arrangements to be agreed upon by the Ministers of Defense of the two Governments, and which are hereby authorized

Article 2

The Governments of Portugal and of the United States, in technical and financial collaboration, and in harmony with technical arrangements to be agreed upon, will construct new installations and enlarge and improve those existing for the purpose of preparing and equipping the agreed facilities in the Azores with what is necessary for the execution of the missions for which under the defense plans they are charged with in time of war.

1) These preparatory works shall include, among other things, the storage of oil, munitions, spare parts and any supplies considered necessary for the purposes in view.
2) The term for the execution of what is set forth in the body of the present Article and in subparagraph 1 will run from the date of signature of this Agreement until the first of September 1956 with a period of grace of four months.

Article 3

All constructions and materials incorporated in the soil will from the start be considered property of the Portuguese State without prejudice to the recognized right of the United States to use such constructions and materials in time of war or in time of peace to the extent and in the manner provided in this Agreement, and to raze and remove them for its account at the end of the term referred to in Article 1 or if the hypothesis mentioned in Article 8 should eventuate, all in accordance with technical arrangements to be agreed upon

At the end of the period referred to in Article 1, as well as in the hypothesis provided for in Article 8, and without prejudice to the technical arrangements referred to above, the United States may raze or remove for its account technical equipment belonging to it and not necessary to the future functioning of the bases, the Portuguese Government making equitable payment for that which it desires to acquire and which may be ceded to it.

Having in mind their eventual use in harmony with the provision of Article 1, the Portuguese Government will undertake the maintenance of the facilities in all the period subsequent to the withdrawa of the American personnel, as stipulated in Article 7.

Article 5

For the purpose of the previous Article, and in accordance wit what will be agreed upon between the Defense Ministers of the tw Governments, the Government of the United States will provide facilities necessary for the apprenticeship and training of Portuguese personnel having in mind the perfect functioning of the bases as well a facilitate duly qualified American personnel and material both deeme indispensable for the missions charged to the military forces in th Azores, in time of peace as well as in time of war, in harmony with th plans established by the competent organs of the North Atlanti Treaty Organization. This American personnel in the period subsequent to the evacuation of the bases in time of peace will be unde Portuguese direction.

Article 6

During the period of the preparation of the bases, in conformit with Article 2 subparagraph 2, and during the period of evacuatio granted under Article 7, the transit of American military aircraf through the Lagens Airdrome continues to be permitted and there wil be authorized on that base, during the same periods, the training o United States aviation and naval personnel, and United States military and civilian personnel stationed there may be increased up to th necessary. There will also be permitted the eventual visit to the airdrome of Santa Maria of some military aircraft which will be provide for by technical arrangements to be concluded between the Minister of Defense of the two Governments.

These arrangements will fix the number and missions of the personnel employed and will define the legal statute to which they wil be subject, as well as the exemptions which the personnel and materia will enjoy in time of peace and in time of war.

Article 7

For a term beyond the periods in which the facilities should b utilized either in time of war or under conditions provided for in subparagraph 2 of Article 2, there will be granted by the Portugues Government between six months and a year, in accordance with th ircumstances and difficulties of the occasion, for the complete evacution of the American personnel and their accompanying equipment which will take place whether or not it has been possible to carry ou the provisions of Article 5.

Stockpiling of materials and supplies necessary to the preparatio for war, in accordance with the reasonable exigencies of the inter-be agreed upon, is authorized during the term referred to in Arti

Article 8

The Government of the United States may at any momen nounce the concessions granted under the present Agreement in case the obligations assumed in this respect by the Portuguese Go ment will likewise cease.

Article 9

In case of war the facilities granted may be utilized by the r the North Atlantic Treaty Organization members. The cond for the utilization of the facilities by the members of the NAT be established by agreement between the competent Portugues American authorities.

The Portuguese Government reserves the right to extend t Government of His Britannic Majesty in the United Kin facilities analogous to those granted under this Agreement.

Article 10

The Portuguese Government will authorize, after the peri evacuation fixed in Article 7, the transit through Lagens of mi aircraft of the United States carrying out missions within the f work of the North Atlantic Treaty Organization. This transi be carried out by the utilization of the Portuguese services i referred to Base, whether or not it has been possible to carry ou provisions of Article 5.

For beyond the period in question, and from time to time, as be agreed between the Ministers of Defense of the two countr the face of circumstances and in each case, the Lagens base m utilized for the exercises of combined training of the appro forces of NATO. The non-Portuguese personnel necessary to this training will remain in the Azores only for the time nece for each operation.

Article 11

Nothing in the technical arrangements to be agreed upon b Ministers of Defense of the two Governments may be underst a contrary sense to the provisions of the present Defense Agree

Article 12

This Agreement will enter into effect on the date of its sign and on the same date the Agreement of February 2, 1948 [1] will to have validity.

In testimony thereof the respective plenipotentiaries of th Governments have placed their signatures and affixed their se the present Agreement.

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[1] TIAS 2351; 2 UST 2266.

Done in Lisbon in two copies, in Portuguese and English, both texts having equal value, this sixth day of September 1951.

. . . .

74. PORTUGUESE-AMERICAN CONVERSATIONS: Communiqué by the Secretary of State and the Portuguese Minister of Foreign Affairs, December 2, 1955 [1]

In the course of the official visit of the Minister of Foreign Affairs of Portugal to Washington, conversations took place between Dr. Paulo Cunha and the Secretary of State, Mr. John Foster Dulles, and other officers of the United States Government on matters of mutual interest to both countries and also on other issues of general interest to their respective foreign policies.

The conversations were carried on in an atmosphere of excellent understanding, and they have therefore made a considerable contribution to the strengthening of Portuguese-American relations. Among other topics, problems of defense within the framework of NATO were discussed. The interdependence of Africa and the Western World was also emphasized.

Problems connected with the trade relations between the United States and Portugal, and certain points relating to the use of atomic energy for peaceful purposes were also considered.

Various statements attributed to Soviet rulers visiting in Asia, which included references to the policies of Western powers in the Far East and allegations concerning the Portuguese provinces in the Far East,[2] were discussed by the two Foreign Ministers. They considered that such statements do not represent a contribution to the cause of peace. The two Ministers whose countries embrace many peoples of many races deplored all efforts to foment hatred between the East and West and to divide peoples who need to feel a sense of unity and fellowship for peace and mutual welfare.

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[1] Department of State *Bulletin*, Dec. 12, 1955, pp. 966–967.

[2] See *infra*, pp. 2294–2296.

75. RELATIONS WITH SPAIN: Letter From the Secretar State to the Chairman of the Senate Committee on Fo Relations, January 18, 1950 [1]

MY DEAR SENATOR CONNALLY: In response to your lett January 16 [2] and following my consultation with the Foreign Rela Committee I am pleased to send you a more detailed statemen United States policy toward Spain, particularly as it affects problem of sending an Ambassador to Spain. I am sending a si letter to Senator Vandenberg,[3] Judge Kee [4] and Dr. Eaton.[5]

The Spanish question has been magnified by controversy position among our present day foreign policy problems whi disproportionate to its intrinsic importance. Organized propag and pressures have kept this controversy alive both here and ab and have served to stimulate more emotional feeling than rat thinking. Thus far, we have succeeded in dealing with this que on a broad bipartisan basis through our distinguished delegatio the United Nations. A clarification of some of the issues might now to put this question in its proper framework in relation t broader aspects of our policy.

Since the end of the war there have been a number of internat actions with respect to Spain. It was agreed at the Potsdam ference in the summer of 1945 [6] and at the San Francisco Confe of the United Nations that same year [7] that Spain could not member of the United Nations as long as the present Govern remains in power. This position was endorsed by the first se of the General Assembly of the United Nations in London in Feb 1946.[8]

In April 1946, the Security Council discussed fully relations the Spanish Government, and again in December the matter debated by the General Assembly at even greater length. resolution which finally passed the General Assembly recomme that the Franco Government be barred from membership in sp ized agencies of the United Nations and that all members o United Nations immediately recall from Madrid their Ambass and Ministers Plenipotentiary accredited there. [9]

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[1] Department of State *Bulletin*, Jan. 30, 1950, pp. 156–159.

[2] Not printed.

[3] Ranking minority member of the Senate Foreign Relations Committee.

[4] John Kee, chairman of the House Foreign Affairs Committee.

[5] Charles A. Eaton, ranking minority member of the House Foreign Committee.

[6] See Section IX of the protocol of proceedings of Aug. 1, 1945; *A Dec American Foreign Policy*, pp. 44–45.

[7] See *The United Nations Conference on International Organization, San cisco, California, April 25 to June 26, 1945: Selected Documents* (Departm State publication 2490; 1946), pp. 569 ff., 908 ff.

[8] Resolution of Feb. 9, 1946; *A Decade of American Foreign Policy*, pp. 88

[9] Res. 39 (I), Dec. 12, 1946; *ibid.*, pp. 888–889.

This matter was discussed again by the General Assembly in November 1947. In the voting on various resolutions the two-thirds rule resulted in the refusal to reaffirm the 1946 resolution. However, the resolution was not repealed.

In May 1949, the General Assembly undertook a further discussion of the Spanish question, but no change was made in the resolution.

The United States has opposed moves in the United Nations to bring about a break in diplomatic relations with or to impose economic sanctions against Spain. This position is based on the Security Council view that the existence of the Franco Regime in Spain is not a threat to peace, and on our view that such outside pressures would either unite the Spanish people against the development of democratic freedoms or would precipitate the Spanish people themselves toward civil war with unknown but inevitably costly consequences.

Entirely aside from its views concerning the present regime in Spain, the United States has long questioned the wisdom and efficacy of the actions recommended in the 1946 resolution. At the time that resolution was debated, the United States delegation, because of its reservations on the sections dealing with Chiefs of Mission and with Security Council action abstained in the vote in the Political Committee. It voted for the resolution in the plenary session of the General Assembly "in the interests of harmony and of obtaining the closest possible approach to unanimity in the General Assembly on the Spanish problem."

Experience since that time has served to confirm our doubts about these recommendations. They were intended as a gesture of disapproval and an attempt to bring about a change in the Spanish Government. In retrospect, it is now clear, however, that this action has not only failed in its intended purpose but has served to strengthen the position of the present regime. This action of the United Nations and discussions of the Spanish question in subsequent sessions of the General Assembly have all been represented in Spain as foreign interference in Spanish internal affairs. The Spanish reaction has been no different from that to be expected from any proud people.

Although some members of the United Nations no longer observe the recommendation with respect to Chiefs of Mission and have returned Ambassadors or Ministers to Madrid, the recommendation has not been amended or repealed by the General Assembly. Since the support and strengthening of the United Nations is a fundamental principle of our foreign policy and since we attach importance as a matter of policy to compliance with United Nations recommendations, we are continuing to adhere to the 1946 resolution so long as it remains in effect.

nized the present Spanish Government on April 1, 1939,[1] and v
had continuous diplomatic relations ever since. Three Am
Ambassadors had been accredited to that Government bef
1946 resolution was passed. When the resolution came into fo
United States abided by the recommendation that Ambassa
withdrawn by refraining from appointing another Ambassado
a vacancy which existed at that time.

In our view, the withdrawal of Ambassadors from Spain as
of political pressure was a mistaken departure from establishe
ciple. It is traditional practice, once a state has been f
recognized, to exchange Ambassadors or Ministers and is
without political significance. At the Ninth International
ence of American States in Bogotá, this principle was incor
in Resolution 35 which states in part that "the establishment o
tenance of diplomatic relations with a government does not im
judgment upon the domestic policy of that government."[2]
ever, the withdrawal of Ambassadors from Spain disregard
principle. By attaching moral significance to the refusal to m
full diplomatic relations with Spain, this action has also implie
significance to the maintenance of full diplomatic relations
the return of Ambassadors. This situation inevitably led
fusion in public opinion both here and abroad. On the one ha
question of returning Ambassadors to Spain has tended to
identified with the larger issue of whether it is desirable to hav
relations with the present Spanish Government. On the othe
public bewilderment has been increased over the inconsist
accrediting Ambassadors to such countries as those in Eastern
whose regimes we do not condone while, at the same time, ref
appoint an Ambassador to Spain.

At the General Assembly last spring, a majority of the m
who voted on the Latin American resolution relating to Sp
pressed a wish to review the 1946 resolution in such a way as t
members to exercise freedom of action in determining wh
return Ambassadors or Ministers to Madrid. It is the opinio
Government that the anomalous situation with respect t
should be resolved. The United States is therefore prepared
for a resolution in the General Assembly which will leave m
free to send an Ambassador or Minister to Spain if they choo
would do this for the reasons I have already stated and in t
that this aspect of the Spanish issue would no longer be ava
be used by hostile propaganda to create unnecessary division
the United Nations and among our own people. Our vote wo
sense signify approval of the regime in Spain. It would
indicate our desire, in the interests of orderly internation

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[1] Department of State *Press Releases*, Apr. 1, 1939, p. 245.

[2] For the full text of the resolution, see *Ninth International Con*
American States, Bogotá, Colombia, March 30–May 2, 1948: Report of t
tion of the United States of America, With Related Documents (Depa
State publication 3263; 1948), p. 271.

sentation.

We have stated on a number of occasions that we would favor the amendment of the 1946 resolution of the General Assembly to permit specialized agencies to admit Spain to membership if, in the opinion of the specialized agencies, Spanish membership would contribute to the effective work of these organizations. We believe that membership in these agencies should be determined, to the extent practicable, on the technical and nonpolitical basis. It has already been discovered on a number of occasions that the work of these specialized organizations has been impaired through the inability of Spain to accept the obligations and restraints, as well as the privileges of their activities.

These conclusions by the United States Government do not imply any change in the basic attitude of this Government toward Spain.

The policy of the United States toward Spain is based on the recognition of certain essential facts. First, there is no sign of an alternative to the present Government.

Second, the internal position of the present regime is strong and enjoys the support of many who, although they might prefer another form of government or chief of state, fear that chaos and civil strife would follow a move to overthrow the Government.

Third, Spain is a part of Western Europe which should not be permanently isolated from normal relations with that area. There are, however, certain obstacles to the achievement of this. Spain, for reasons associated with the nature, origin and history of the present Spanish Government, is still unacceptable to many of the Western European nations as an associate in such co-operative projects as the European Recovery Program and the Council of Europe. We believe that this is a matter in which the Western European nations must have a leading voice. These programs, which require for their success the closest possible cooperation between the participants, are directed to the strengthening and development of the democratic way of life as opposed to the threats to it posed by Communist expansion. This is a policy which we and the Western European nations have agreed upon. It is not merely a negative reaction to communism. It is, rather, a positive program to support and strengthen democratic freedoms, politically, economically, and militarily. In that context, the participation of the present Spanish Government, unless and until there has been some indication of evolution toward more democratic government in Spain, would weaken rather than strengthen the collective effort to safeguard and strengthen democracy.

We are therefore continuing our efforts in a frank and friendly manner to persuade the Spanish Government that its own interest in participating in the international community, and particularly in the Western European community, requires steps toward democratic government which offers the best hope for the growth of basic human rights and fundamental freedoms in Spain. It requires cooperation on the part of all parties, and, as must be evident, it is not funda mentally a matter which can be successfully brought about American action. The decision as to what steps can and should taken is obviously one for Spaniards alone. At the same time, i difficult to envisage Spain as a full member of the free West community without substantial advances in such directions as creased civil liberties and as religious freedom and the freedom exercise the elementary rights of organized labor. It is signific that one of the first acts of the new International Confederation Free Trade Unions was to pass a resolution condemning the pres government of Spain, and opposing any assistance to Spain "u such time as democratic and full trade union rights have been stored and the workers are once more able to make their contribut to the country's recovery."

United States economic policy toward Spain is directed to development of mutually beneficial economic relations. This pol is based on purely economic, as distinct from political, groun We believe that private business and banking arrangements and tr activities with Spain should be conducted on a free and normal ba The Department interposes no political objections and restrictions such activities.

So far as economic assistance from this Government is concern Spain is free to apply to and consult with the Export-Import B for credits for specific projects on the same basis as any other count While the United States Government definitely does not favor extension of a general balance of payments loan to the Span Government to use as it sees fit, it is quite prepared to acquiesce the extension of credits to Spain covering specific and economica justifiable projects. It has been made clear to all Spaniards, b private and official, that Spanish applications for such projects will considered on the same basis as those from any other country and final decision will be made, in accordance with the Bank's regu policy, not only on the basis of the need for the credit and the s ability of the particular purpose to be served, but also on whet there is a reasonable prospect of repayment.

The successful development of mutually beneficial econo relations between the United States and Spain is entirely depend upon the equal cooperation of both parties. Unfortunately, howe little progress has been made. The United States sincerely des to facilitate normal business and trade with Spain, but ultim success depends on the cooperation of the Spanish Government taking constructive steps to promote its trade and to attract fore investment. In order to assist in the development of these activit the negotiation of a new Treaty of Friendship, Commerce and Na gation was offered by the United States. To date, the Span percent on the participation of foreign investors in any Spanish enterprise and to accord better treatment to existing foreign investments, both of which are today distinct hindrances to the flow of investment to Spain. We have, in connection with these problems, pointed out to interested Spaniards and to the Spanish Government that the present critical situation in the Spanish dollar balance of payments seems to derive from difficulties many of which it is believed could be substantially rectified by action of the Spanish Government. To date, however, that Government has taken little action along these lines. In the Department's opinion the next steps to be taken in furthering mutually beneficial economic relations between Spain and the United States are up to the Spanish Government.

Sincerely yours,

DEAN ACHESON

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76. MILITARY FACILITIES IN SPAIN: Statement by the Secretary of State, July 18, 1951 [1]

[*Secretary Acheson made the following statement regarding the July 16 conversation between Admiral Forrest P. Sherman, Chief of Naval Operations, and Generalissimo Francisco Franco:*]

Admiral Sherman's interview with General Franco on Monday has caused widespread speculation in the press, both here and abroad. The facts are as follows:

Military authorities are in general agreement that Spain is of strategic importance to the general defense of Western Europe. As a natural corollary to this generally accepted conclusion, tentative and exploratory conversations have been undertaken with the Spanish Government with the sole purpose of ascertaining what Spain might be willing and able to do which would contribute to the strengthening of the common defense against possible aggression.

We have been talking with the British and French Governments for many months about the possible role of Spain in relation to the general defense of Western Europe. We have not been able to find a common position on this subject with these Governments for reasons of which we are aware and understand. However, for the strategic reasons outlined above, the United States has initiated these exploratory conversations.

Any understanding which may ultimately be reached will supplement our basic policy of building the defensive strength of the West. It has been and is our firm intention to see to it that if Western

or whom a clear priority has been established. There will be
nge in this procedure. In other words, the North Atlantic
is fundamental to our policy in Europe and the closest possible
ation with our NATO Allies will remain the keystone of this

ILITARY FACILITIES IN SPAIN: Statement by the Secretary of State, March 12, 1952 [1]

parations have now been completed for negotiations with the
h Government regarding the use of military facilities in Spain.
e my last statement on this subject in July,[2] a military team
economic group were sent to Spain. After thorough study of
ports of these survey groups, the Department of State, with
epartment of Defense, and the Mutual Security Agency, have
preparations for negotiations with the Spanish Government.
negotiations will involve the use by the United States of military
facilities in Spain and, in that connection, the use of the
00,000 already voted by the Congress for aid to Spain.[3]
otiations will be opened with the Spanish Government immediately
after the arrival of Ambassador MacVeagh. Military advisers
been appointed to assist the Ambassador. They will be headed
j. Gen. August W. Kissner, U.S. Air Force, and will also include
Gen. Crump Carvin, U.S. Army, Capt. H. B. Sanchez, U.S.
, and Col. Jack Roberts, U.S. Air Force.

ILITARY FACILITIES IN SPAIN: Agreement Between the United States and Spain, September 26, 1953 [4]

Preamble

ed with the danger that threatens the western world, the Gov-
nts of the United States and Spain, desiring to contribute to the
enance of international peace and security through foresighted
res which will increase their capability, and that of the other
s which dedicate their efforts to the same high purposes, to
ipate effectively in agreements for self defense;
ve agreed as follows:

ARTICLE I

consonance with the principles agreed upon in the Mutual De-
Assistance Agreement,[5] the Governments of the United States

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[1] partment of State *Bulletin*, Mar. 24, 1952, p. 450.
[2] atement of July 18, 1951; *supra*.
[3] e the Mutual Security Appropriations Act of 1952 (PL 249, 82d Cong.,
s., Oct. 31, 1951; 65 Stat. 730).
[4] AS 2850; 4 UST 1895.
[5] AS 2849; 4 UST 1876.

may be faced indicate the advisability of developing their relations upon a basis of continued friendship, in support of the policy of strengthening the defense of the West. This policy shall include:

1. On the part of the United States, the support of Spanish defense efforts for agreed purposes by providing military end item assistance to Spain during a period of several years to contribute to the effective air defense of Spain and to improve the equipment of its military and naval forces, to the extent to be agreed upon in technical discussions in the light of the circumstances, and with the cooperation of the resources of Spanish industry to the extent possible. Such support will be conditioned as in the case of other friendly nations by the priorities and limitations due to the international commitments of the United States and the exigencies of the international situation and will be subject to Congressional appropriations.

2. In consequence of the above stated premises and for the same agreed purposes, the Government of Spain authorizes the Government of the United States, subject to terms and conditions to be agreed, to develop, maintain and utilize for military purposes, jointly with the Government of Spain, such areas and facilities in territory under Spanish jurisdiction as may be agreed upon by the competent authorities of both Governments as necessary for the purposes of this agreement.

3. In granting assistance to Spain within the policy outlined above, as the preparation of the agreed areas and facilities progresses, the Government of the United States will satisfy, subject to the provisions of paragraph one, the minimum requirements for equipment necessary for the defense of Spanish territory, to the end that should a moment requiring the wartime utilization of the areas and facilities arrive, from this moment, the requirements are covered to the extent possible as regards the air defense of the territory and the equipment of the naval units; and that the armament and equipment of the Army units be as far advanced as possible.

ARTICLE II

For the purposes of this agreement and in accordance with technical arrangements to be agreed upon between the competent authorities of both Governments, the Government of the United States is authorized to improve and fit agreed areas and facilities for military use, as well as to undertake necessary construction in this connection in cooperation with the Government of Spain; to station and house therein the necessary military and civilian personnel and to provide for their security, discipline and welfare; to store and maintain custody of provisions, supplies, equipment and material; and to maintain and operate the facilities and equipment necessary in support of such areas and personnel.

ARTICLE III

The areas which, by virtue of this Agreement, are prepared for joint utilization will remain under Spanish flag and command, and will assume the obligation of adopting the necessary measures e external security. However, the United States may, in all exercise the necessary supervision of United States personnel, ies, and equipment.

time and manner of wartime utilization of said areas and ies will be as mutually agreed upon.

Article IV

Government of Spain will acquire, free of all charge and servi- the land which may be necessary for all military purposes and etain the ownership of the ground and of the permanent struc- which may be constructed thereon. The United States Govern- reserves the right to remove all other constructions and fa- s established at its own expense when it is deemed convenient e Government of the United States or upon the termination s Agreement; in both cases the Spanish Government may ac- them, after previous assessment, whenever they are not instal- s of a classified nature.

Spanish state will be responsible for all claims made against nited States Government by a third party, in all cases referring ownership and utilization of the above-mentioned land.

Article V

present Agreement will become effective upon signature and e in force for a period of ten years, automatically extended for iccessive periods of five years each unless the termination proce- iereafter outlined is followed.

the termination of the first ten years or of either of the two sions of five years, either of the two Governments may inform her of its intention to cancel the Agreement, thus initiating a ltation period of six months. In the event concurrence is not ed on extension, this Agreement will terminate one year after nclusion of the period of consultation.

witness whereof the respective representatives, duly authorized e purpose, have signed the present Agreement.

ne at Madrid, in duplicate, in the English and Spanish languages, texts authentic, this 26th day of September, 1953.

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ORT ON UNITED STATES RELATIONS WITH SPAIN: dress by the American Ambassador to Spain,[1] December 10, 5[2]]

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n Davis Lodge.

partment of State *Bulletin*, Jan. 9, 1956, pp. 43–48.

79. JOINT POLITICAL AIMS OF THE UNITED STATES AND THE UNITED KINGDOM: Communiqué by the President of the United States and the Prime Minister of the United Kingdom January 9, 1952 [1]

The President and the Prime Minister held four meetings at the White House on January 7 and 8, 1952. The Prime Minister was accompanied by the Foreign Secretary, Mr. Anthony Eden, by the Secretary of State for Commonwealth Relations, Lord Ismay, and by the Paymaster-General, Lord Cherwell. The President's advisers included the Secretaries of State, Treasury, Defense, Mr. Charles E. Wilson,[2] and Mr. W. Averell Harriman.[3] The visit of Mr. Churchill and his colleagues also afforded opportunities for a number of informal meetings.

At the end of the talks the President and the Prime Minister issued the following announcement:

During the last two days we have been able to talk over, on an intimate and personal basis, the problems of this critical time. Our discussions have been conducted in mutual friendship, respect and confidence. Each of our Governments has thereby gained a better understanding of the thoughts and aims of the other.

The free countries of the world are resolved to unite their strength and purpose to ensure peace and security. We affirm the determination of our Governments and peoples to further this resolve, in accordance with the purposes and principles of the United Nations Charter. The strong ties which unite our two countries are a massive contribution to the building of the strength of the free world.

Under arrangements made for the common defense, the United States has the use of certain bases in the United Kingdom. We reaffirm the understanding that the use of these bases in an emergency would be a matter for joint decision by His Majesty's Government and the United States Government in the light of the circumstances prevailing at the time.

We share the hope and the determination that war, with all its modern weapons, shall not again be visited on mankind. We will remain in close consultation on the developments which might increase danger to the maintenance of world peace.

We do not believe that war is inevitable. This is the basis of our policies. We are willing at any time to explore all reasonable means of resolving the issues which now threaten the peace of the world.

The United States Government is in full accord with the views expressed in the joint statement issued in Paris on December 18, 1951, at the conclusion of the Anglo-French discussions.[4] Our two Govern-to establish a European Defense Community, and will lend all ;ance in their power in bringing it to fruition.[1] We believe that s the best means of bringing a democratic Germany as a full and l partner into a purely defensive organization for European ity. The defense of the free world will be strengthened and ified by the creation of a European Defense Community as an ent in a constantly developing Atlantic Community.

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[1] Department of State *Bulletin,* Jan. 21, 1952, pp. 83–84.

[2] Director, Office of Defense Mobilization.

[3] Director, Mutual Security Agency.

[4] *Documents on International Affairs, 1951* (London, 1954), pp. 141–142.

ir Governments are resolved to promote the stability, peaceful lopment, and prosperity of the countries of the Middle East. have found a complete identity of aims between us in this part e world, and the two Secretaries of State will continue to work together agreed policies to give effect to this aim. We think it itial for the furtherance of our common purposes that an Allied dle East Command should be set up as soon as possible.[2]

regards Egypt, we are confident that the Four Power approach s the best prospect of relieving the present tension.[3]

e both hope that the initiative taken by the International Bank Reconstruction and Development will lead to a solution of the ian oil problem acceptable to all the interests concerned.[4]

e have discussed the many grave problems affecting our two coun- in the Far East. A broad harmony of view has emerged from discussions; for we recognize that the overriding need to counter Communist threat in that area transcends such divergencies as e are in our policies toward China. We will continue to give support for United Nations measures against aggression in Korea l peace and security are restored there. We are glad that the fs of Staff of the United States, the United Kingdom, and France be meeting in the next few days to consider specific measures to gthen the security of Southeast Asia.

e have considered how our two countries could best help one her in the supply of scarce materials important to their defense grams and their economic stability.[5] The need of the United gdom for additional supplies of steel from the United States, and need of the United States for supplies of other materials, including ninum and tin, were examined. Good progress was made. The ussions will be continued and we hope that agreement may be ounced shortly.

e have reviewed the question of standardization of rifles and nunition in the North Atlantic Treaty Organization. Neither ntry thinks it wise at this critical time to take the momentous of changing its rifle. In the interest of economy, both in time money, we have agreed that the United States and the United dom will continue to rely upon rifles and ammunition now in k and currently being produced. In the interest however of ntual standardization, we have also agreed that both countries

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See *supra*, pp. 1107–1198.

See *infra*, pp. 2180–2187.

See *ibid*.

See *infra*, pp. 2261–2269.

See *infra*.

scale while a common effort is made to devise a rifle and ammunition suitable for future standardization.

The question of the Atlantic Command is still under discussion.

Throughout our talks we have been impressed by the need to strengthen the North Atlantic Treaty Organization by every means within our power and in full accord with our fellow members. We are resolved to build an Atlantic community, not only for immediate defense, but for enduring progress.

80. ALLOCATION OF BRITISH AND AMERICAN STRATEGIC MATERIALS: Communiqué by the President of the United States and the Prime Minister of the United Kingdom, January 18, 1952[1]

In their communiqué of January 9, 1952,[2] the President and the Prime Minister announced that they had considered how the United States and the United Kingdom could best help each other in the supply of scarce materials and that discussions were continuing.

These discussions have now been completed. Agreements have been reached which, taken together within a framework of mutual assistance, will make it possible for the two countries to carry out more effectively their common task of contributing to the strength and security of the free world. The United States will help the United Kingdom to meet its most serious shortage, steel, and the United Kingdom will help alleviate one of the United States most serious shortages, aluminum, and will also assist the United States in getting supplies of tin.

The United Kingdom requirements of steel for 1952 were reviewed in detail. On the basis of these requirements, and after allowing for supplies of foreign ore to be diverted to the United Kingdom by arrangement between the United Kingdom and the United States steel industry, the United States undertook to make available to the United Kingdom for purchase during 1952 steel (including scrap and pig iron now earmarked for the United States from overseas sources) to a total figure of 1,000,000 long tons. This includes the steel allocated for the first quarter in the previously announced arrangement. About 80 per cent of the amount supplied will be steel, mostly in the form of ingots. This represents less than one per cent of the total United States production. It has been agreed that the United States may vary the proportions between the steel products and the steel making materials to be supplied.

This will be of the greatest assistance to the United Kingdom in meeting its defense and essential civilian needs, and will help the United Kingdom industry to take care of some of the essential needs of other friendly countries for structural steel and plate steel, thereby relieving the pressure on overburdened United States facilities.

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[1] Department of State *Bulletin*, Jan. 28, 1952, p. 115.

[2] *Supra.*

will be supplied in structural or plate or in shapes that are in ser short supply in the United States. Most of the steel will be supp in the last half of 1952 when a portion of the United States s expansion program will have been completed. Deliveries to United Kingdom will be confined to those items in reasonably supply.

The steel shipments to Britain will be so arranged as to time types that no cut will be required in steel allocations already mad United States industry for the first and second quarters of 1952.

United States requirements for aluminum and tin were also revie On the basis of these requirements, the United Kingdom agree make available to the United States a total of 55,100,000 pound aluminum. This represents an increase, to be spread evenly over last three quarters of 1952, of 33,060,000 pounds of aluminum the arrangements made recently with the United States by the Un Kingdom. This quantity is equivalent to about 10 percent of total United Kingdom annual supply. The United States has ag that it will replace this aluminum by the middle of 1953. It is pected that much of the United States aluminum expansion prog will be in operation by that time.

The United Kingdom has agreed to make available to the Un States 20,000 long tons of tin during 1952 at $1.18 per pound, f. Singapore. Both Governments agreed that it would be desirab more normal arrangements for the conduct of the tin trade coul established as soon as possible.

These arrangements will enable the United States to more ne meet its essential tin plate requirements and improve its alumi allocations to defense and civilian industries.

It was noted that both countries would continue to use their efforts to expand and accelerate their programs for increasing pro tion of scarce materials, both at home and overseas.

The two Governments also reviewed and expressed satisfac with the progress which has been made through the Internati Materials Conference toward effecting equitable distribution of raw materials.

These arrangements should make a valuable contribution to defense programs of the two countries, and increase their abilit meet the acute shortage in the free world of steel, tin plate, and o strategic materials.

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81. ANGLO-AMERICAN ECONOMIC POLICIES: Commun Regarding Discussions, March 7, 1953 (Excerpt)[1]

Representatives of the United States and the United Kingdom to concluded their discussions on measures for creating the econo and financial conditions under which the countries of the free w

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[1] Department of State *Bulletin*, Mar. 16, 1953, pp. 395–396.

These conversations were informal and raised questions on which it was understood in advance that no commitments would be made.

The U.K. representatives explained the suggestions which emerged from the Conference of Commonwealth Prime Ministers, held in London in December of last year,[1] for measures which might be taken to restore balance in the world economy through the channels of commerce and to develop, by progressive stages, an effective multilateral trade and payments system over the widest possible area. These measures would involve action by the Commonwealth countries, the United States, the countries of continental Western Europe, and the countries that are members of existing international trade and financial institutions.

The discussions covered the internal and international conditions which would have to be established in order that each country might enjoy the human and material benefits of freer and dependable currencies and a larger volume of trade and commerce.

They also included a review of the over-all economic and fiscal situation of the United States. Note was taken of the significant U.S. defense expenditures overseas, including offshore purchases.

From these conversations, certain conclusions have emerged:

There is full agreement between the two Governments that the solution of the economic problems of the free world is vital to its security and well-being.

They also agree that the essential elements of a workable and productive economic system within the free world should include

(*a*) *Sound internal policies:* International economic policies cannot succeed unless they are based on sound internal policies, by debtor as well as creditor countries. During the course of the conversations, the U.S. representatives made it clear that the Government of the United States welcomes the intention of the Commonwealth Governments, expressed in their December communiqué, to follow the internal financial and economic policies needed to achieve a freer exchange of currencies and trade.

(*b*) *Freer trade and currencies:* The freeing and expansion of world trade must cover currencies as well as trade. On the financial side the objective should be the eventual convertibility of sterling and other currencies and the gradual removal of restrictions on payments. On the trade side the objective should be to bring about the relaxation of trade restrictions and discriminations in a way which, in the words of President Eisenhower's State of the Union Message, "will recognize the importance of profitable and equitable world trade."[2] It is in the interest of the United States to take such measures as are exemplified in the President's message in order that the members of the free world may the better pay their way by their own efforts.

(*c*) *Development:* The creation of conditions, both by creditor and by debtor countries, which will foster international investment and connection, the Government of the United States emphasized intention to encourage the flow of investment abroad.

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[1] See communiqué of Dec. 11, 1952; *ibid.*, pp. 397–399.

[2] Message of Feb. 2, 1953; *supra*, pp. 61–65.

(*d*) *Organization:* International institutions should be const tively used to promote these policies.

The Government of the United States welcomes the initia taken by the United Kingdom Government in connection with t problems of common concern.

The two Governments believe that there is reason to hope continued progress toward a better balanced, growing world t and toward the restoration of a multilateral system of trade payments. The nature and scope of the measures which may taken by governments to further such progress, and the timin such measures, will require further study.

The Government of the United States will undertake, and cont over the next several months, an intensive examination and re of the general subjects discussed at the present meetings, inclu the suggestions resulting from the Commonwealth Economic Co ence, and possible alternative suggestions, in order to arrive sound judgment with respect to the specific courses of action w might be taken. The two Governments intend to have fur discussions with each other, with other governments, and with international organizations concerned, including the Organiza for European Economic Cooperation.

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82. EXCHANGE OF VIEWS ON POLITICAL MATTERS: St ment by the Secretary of State and the British Foreign Secret April 13, 1954 [1]

At the conclusion of their meetings in London on April 12 and during which they discussed a number of matters of common conc Mr. John Foster Dulles and Mr. Anthony Eden issued the follo statement:

We have had a full exchange of views with reference to South Asia. We deplore the fact that on the eve of the Geneva Confer the Communist forces in Indochina are increasingly developing t activities into a large-scale war against the forces of the French U They seek to overthrow the lawful and friendly Government of Nam which we recognize; and they have invaded Laos and Cambo We realize that these activities not only threaten those now dire involved, but also endanger the peace and security of the entire of Southeast Asia and the Western Pacific, where our two nat and other friendly and allied nations have vital interests.

Accordingly we are ready to take part, with the other coun lishing a collective defense, within the framework of the Charter of the United Nations, to assure the peace, security and freedom of Southeast Asia and the Western Pacific.[1]

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[1] Department of State *Bulletin*, Apr. 26, 1954, p. 622.

It is our hope that the Geneva Conference will lead to the restoration of peace in Indochina.[2] We believe that the prospect of establishing a unity of defensive purpose throughout Southeast Asia and the Western Pacific will contribute to an honorable peace in Indochina.

We have also discussed developments in the field of atomic energy. It will be recalled that on March 19 the Soviet Ambassador in Washington was handed by the Secretary of State of the United States a concrete proposal [3] elaborating on that portion of President Eisenhower's speech of December 8, 1953, before the General Assembly of the United Nations which dealt with the subject of peaceful use of atomic energy.[4] The Government of the United Kingdom, together with several other friendly nations concerned, had been consulted and had concurred in the terms of the concrete proposal before it was given to the Soviet Government. No reply has yet been received from that government, which is studying the proposal. We also noted that the British Representative to the United Nations in New York, with the support of the United States and French Representatives, had suggested that a call be issued for an early meeting of the subcommittee of the Disarmament Commission of the United Nations.

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83. GENERAL POLICY REVIEW: Statement by the President of the United States and the Prime Minister of the United Kingdom, June 28, 1954 [5]

At the end of their meetings today, the President and the Prime Minister issued the following statement:

In these few days of friendly and fruitful conversations, we have considered various subjects of mutual and world interest.

I. Western Europe

We are agreed that the German Federal Republic should take its place as an equal partner in the community of Western nations, where it can make its proper contribution to the defense of the free world. We are determined to achieve this goal, convinced that the Bonn and Paris Treaties provide the best way.[6] We welcome the recent e present uncertainties.[1]

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[1] These collective defense proposals eventually resulted in the Southeast Asia Treaty Organization; see *supra*, pp. 912–916.

[2] See *infra*, pp. 2372–2398.

[3] *Infra*, pp. 2805–2808.

[4] *Infra*, pp. 2798–2805.

[5] Department of State *Bulletin*, July 12, 1954, p. 49.

[6] Convention of May 26, 1952; S. Execs. Q and R, 82d Cong., 2d sess., pp. 9–22; European Defense Community Treaty of May 27, 1952; *supra*, pp. 1107–1150.

The European Defense Community Treaty has been ratified by ur[2] of the six signatory nations, after exhaustive debates over a riod of more than two years. Naturally these nations are unwilling disregard their previous legislative approvals or to reopen these mplex questions.

In connection with these treaties, the United States and the United ngdom have given important assurances,[3] including the disposi-on of their armed forces in Europe, in order to demonstrate their fidence in the North Atlantic Community and in the EDC and e Bonn Treaties.

It is our conviction that further delay in the entry into force of the DC and Bonn Treaties would damage the solidarity of the Atlantic tions.

We wish to reaffirm that the program for European unity inspired France, of which the EDC is only one element, so promising to eace and prosperity in Europe, continues to have our firm support.

I. *Southeast Asia*

We discussed Southeast Asia and, in particular, examined the uation which would arise from the conclusion of an agreement on dochina. We also considered the situation which would follow om failure to reach such an agreement.

We will press forward with plans for collective defense to meet ther eventuality.

We are both convinced that if at Geneva the French Government confronted with demands which prevent an acceptable agreement garding Indochina, the international situation will be seriously gravated.

II. *Atomic Matters*

We also discussed technical cooperation on atomic energy. We greed that both our countries would benefit from such cooperation the fullest extent allowed by U.S. legislation.

V.

In addition to these specific matters, we discussed the basic prin-ples underlying the policy of our two countries. An agreed declara-on setting forth certain of these will be made available tomorrow.

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[1] See the address by M. Mendès-France before the French National Assembly, ne 17, 1954; *Documents on American Foreign Relations, 1954* (New York, 1955), . 72–78.

[2] The Federal Republic of Germany, Belgium, the Netherlands, and Luxem-ourg.

[3] See President Eisenhower's message of Apr. 15, 1954, to the Prime Ministers the countries which signed the EDC Treaty (*supra*, pp. 1198–1200) and the eaty of May 27, 1952, between the United Kingdom and the EDC (*supra*, . 1172–1173).

84. COMMON PRINCIPLES OF ANGLO-AMERICAN POLICY: Declaration by the President of the United States and the Prime Minister of the United Kingdom (Potomac Charter), June 29, 1954[1]

As we terminate our conversations on subjects of mutual and world interest, we again declare that:

(1) In intimate comradeship, we will continue our united efforts to secure world peace based upon the principles of the Atlantic Charter, which we reaffirm.

(2) We, together and individually, continue to hold out the hand of friendship to any and all nations, which by solemn pledge and confirming deeds show themselves desirous of participating in a just and fair peace.

(3) We uphold the principle of self-government and will earnestly strive by every peaceful means to secure the independence of all countries whose peoples desire and are capable of sustaining an independent existence. We welcome the processes of development, where still needed, that lead toward that goal. As regards formerly sovereign states now in bondage, we will not be a party to any arrangement or treaty which would confirm or prolong their unwilling subordination. In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the United Nations to insure they are conducted fairly.

(4) We believe that the cause of world peace would be advanced by general and drastic reduction under effective safeguards of world armaments of all classes and kinds. It will be our persevering resolve to promote conditions in which the prodigious nuclear forces now in human hands can be used to enrich and not to destroy mankind.

(5) We will continue our support of the United Nations and of existing international organizations that have been established in the spirit of the Charter for common protection and security. We urge the establishment and maintenance of such associations of appropriate nations as will best, in their respective regions, preserve the peace and the independence of the peoples living there. When desired by the peoples of the affected countries we are ready to render appropriate and feasible assistance to such associations.

(6) We shall, with our friends, develop and maintain the spiritual, economic and military strength necessary to pursue these purposes effectively. In pursuit of this purpose we will seek every means of promoting the fuller and freer interchange among us of goods and services which will benefit all participants.

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[1] Department of State *Bulletin*, July 12, 1954, pp. 49–50.

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